

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)
Plaintiff,) Criminal Action
v.) No. 09-10017-GAO
TAREK MEHANNA,)
Defendant.)

BEFORE THE HONORABLE GEORGE A. O'TOOLE, JR.
UNITED STATES DISTRICT JUDGE

DAY SIX

JURY TRIAL

John J. Moakley United States Courthouse
Courthouse No. 9
One Courthouse Way
Boston, Massachusetts 02210
Tuesday, November 1, 2011
9:04 a.m.

Marcia G. Patrisso, RMR, CRR
Cheryl Dahlstrom, RMR, CRR
Official Court Reporters
John J. Moakley U.S. Courthouse
One Courthouse Way, Room 3510
Boston, Massachusetts 02210
(617) 737-8728

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1 APPEARANCES:

2 OFFICE OF THE UNITED STATES ATTORNEY
3 By: Aloke Chakravarty and Jeffrey Auerhahn,
4 Assistant U.S. Attorneys
John Joseph Moakley Federal Courthouse
Suite 9200
Boston, Massachusetts 02210
5 - and -
UNITED STATES DEPARTMENT OF JUSTICE
6 By: Jeffrey D. Groharing, Trial Attorney
National Security Division
7 950 Pennsylvania Avenue, NW
Washington, D.C. 20530
8 On Behalf of the Government

9 CARNEY & BASSIL
10 By: J.W. Carney, Jr., Esq.
Janice Bassil, Esq.
John E. Oh, Esq.
11 20 Park Plaza
Suite 1405
12 Boston, Massachusetts 02216
- and -
13 LAW OFFICE OF SEJAL H. PATEL, LLC
By: Sejal H. Patel, Esq.
14 101 Tremont Street
Suite 800
15 Boston, Massachusetts 02108
On Behalf of the Defendant

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19

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I N D E X

DIRECT CROSS REDIRECT RECROSS

WITNESSES FOR THE
GOVERNMENT:

JOHN SCHWARTZ (Cont'd)

by Mr. Chakravarty
by Ms. Bassil

32 33

JOHN CAUTHEN

by Mr. Chakravarty
by Ms. Bassil

VEERA BOONYASAIT

by Mr. Chakravarty 46
by Mr. Carney

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E X H I B I T S

<u>GOVT'S</u>	<u>DESCRIPTION</u>	<u>FOR ID</u>	<u>IN EVD.</u>
417	At-Tibyan Publications document		9
747	SurfSpeedy Certificate of Authenticity		39
410-427	Posts and private messages from at-Tibyan Publications		56

DEFENDANT'S

1075 At-Tibyan Publications thread beginning on 1/16/05 20

1 (The following proceedings were held in open court
2 before the Honorable George A. O'Toole, Jr., United States
3 District Judge, United States District Court, District of
4 Massachusetts, at the John J. Moakley United States Courthouse,
5 One Courthouse Way, Boston, Massachusetts, on November 1, 2011.

6 The defendant, Tarek Mehanna, is present with counsel.
7 Assistant U.S. Attorneys Aloke Chakravarty and Jeffrey Auerhahn
8 are present, along with Jeffrey D. Groharing, Trial Attorney,
9 U.S. Department of Justice, National Security Division.)

00:08 10 THE COURT: Good morning, jurors. Counsel, I think we
11 were at the cross-examination.

12 MR. CHAKRAVARTY: Mr. Schwartz was on the stand.

13 THE COURT: Yeah. Where is he?

14 You remain sworn from yesterday, of course.

15 THE WITNESS: Yes, sir.

16 CROSS-EXAMINATION BY MS. BASSIL:

17 Q. Good morning, Agent Schwartz.

18 A. Good morning.

19 Q. I think you said that your position was that you were in
00:09 20 counterterrorism with a specialty in internet web forums?

21 A. Internet targeting.

22 Q. And that includes web forums?

23 A. Yes.

24 Q. And so I just want to try to clarify these different
25 forums. On the internet, there are things like websites, like

1 boston.com or nytimes.com, right?

2 A. Yes.

3 Q. And you can go there and see what the news is for the day?

4 A. Sure.

5 Q. Or Overstock.com, you can go and buy discount things?

6 A. That's correct.

7 Q. A forum is a little different. It's a website that people
8 can sort of write into. They can post what they were thinking
9 about on a particular topic?

00:10 10 A. Yes.

11 Q. And they might put an essay on it or a translation if it's
12 an Arabic forum, correct?

13 A. Yes.

14 Q. Other people can say I disagree; I agree; you're full of
15 hot air; I don't like you. People can list all kinds of
16 comments, correct?

17 A. Correct.

18 Q. Tibyan was -- Tibyan was one such forum, correct?

19 A. Yes.

00:11 20 MS. BASSIL: I'm just going to write some names down
21 so that they're just clear for the jury in terms of spelling,
22 your Honor.

23 THE COURT: Okay.

24 MS. BASSIL: Sometimes it's hard to follow along
25 because of this --

1 THE COURT: You may want to zoom out a little. Miss
2 Bassil, you may want to zoom out a little bit.

3 Q. (Writing). Tibyan is how that's spelled, right?

4 A. Yes, it looks correct.

5 Q. Okay. And there are other Islamic forums. There's
6 Islamic Network, correct?

7 A. I'm not familiar with it.

8 Q. Are you familiar with Islamic Awakening?

9 A. No.

00:11 10 Q. In terms of Tibyan, did you spend time learning about that
11 forum?

12 A. No.

13 Q. So do you know anything about the people who were on that
14 forum?

15 A. No.

16 Q. Let me see -- people would go on that forum -- I think you
17 said it was password protected?

18 A. That's my understanding.

19 Q. So you needed a password to just even log onto it?

00:12 20 A. That's my understanding, yes.

21 Q. And so, for example --

22 A. And, ma'am, to clarify, going back with the passwords,
23 what I was explaining yesterday is some forums require
24 passwords; some don't. And I'm not sure with Tibyan if it
25 required a password or not.

1 Q. So if it required a password, I couldn't just type
2 Tibyan.com and have access?

3 A. That would be correct, yes, ma'am.

4 Q. As you said, some forums -- a lot of places have passwords
5 if you're going to post comments, right?

6 A. Yes, I would say, yes. Some forums do have passwords.

7 Q. WeightWatchers.com require passwords?

8 A. I don't know.

9 Q. Lucky you.

00:13 10 A. Yes, ma'am.

11 Q. So you're not really familiar -- by the way, were you
12 familiar with the idea that people used screen names on Tibyan
13 and they didn't use their real names?

14 A. No, I was not familiar.

15 Q. Okay. Are you familiar with whether some people espoused
16 more moderate views or more radical views?

17 A. No. Up until this point, I've never seen the Tibyan
18 forum, and I've never seen messages posted on Tibyan forum up
19 until this investigation.

00:13 20 Q. So when you U.S. Attorney -- when he put exhibits in
21 through you yesterday, had you read those exhibits?

22 A. Yes, I had.

23 Q. Had you read -- some of them were messages -- and I'm
24 going to get to this in a minute. Had you read the messages
25 that came before them or came after them?

1 A. No.

2 Q. So on this forum, sir, for example, someone might post a
3 translation of a piece written by a classical scholar, correct?

4 A. Yes, it's possible.

5 MS. BASSIL: Could we have Exhibit 417.

6 THE COURT: That's not one of the ones that was
7 admitted yesterday, right?

8 MS. BASSIL: No, your Honor. I gave the government
9 notice which ones I would be using.

00:14 10 THE COURT: For display purposes, it will be just for
11 the witness.

12 MS. BASSIL: That's correct.

13 Q. Are you familiar, first of all, with this document?

14 A. Honestly, I can't read it because it's not --

15 Q. It's small?

16 A. Yes.

17 MS. BASSIL: Is there any way to make it bigger, your
18 Honor?

19 THE COURT: I think the computer can. You can enlarge
00:15 20 the top part of it.

21 MS. BASSIL: That would be great.

22 Q. Is that better?

23 A. Yes, it is. I can see the top part of it.

24 Q. All right.

25 MS. BASSIL: If we could just go to the top banner,

1 please, this part right here.

2 Your Honor, if I can post this to the jury. I'll put
3 the whole exhibit in, but I just want to show these pieces.

4 MR. CHAKRAVARTY: Objection, your Honor. There's no
5 foundation, your Honor. This witness has never seen this
6 before.

7 MS. BASSIL: The government has it listed as an
8 exhibit to --

9 THE COURT: Isn't it one of your exhibits?

00:15 10 MR. CHAKRAVARTY: It is. We intend to offer it. This
11 witness has never seen this exhibit before. He's going to be
12 ambushed with an exhibit that he's never read to authenticate
13 it.

14 THE COURT: I think it can be admitted. It's on the
15 government's list. Whether he can say anything useful about it
16 is another matter. That will depend on the question he gets
17 asked. You're eventually going to offer it, aren't you?

18 MR. CHAKRAVARTY: Right, with either the next witness
19 or the following witness.

00:16 20 THE COURT: Why don't we just do it now.

21 MS. BASSIL: Thank you. Your Honor, I would put this
22 into evidence as Exhibit 417.

23 (Exhibit No. 417 received into evidence.)

24 THE COURT: What's on the screen, of course, is a
25 segment of it?

1 MS. BASSIL: Right. And if we could just start with
2 the segment.

3 Q. So if you look at the top of this, Agent Schwartz, it
4 says, "At-Tibyan Publications." That's sort of their banner at
5 the top of each page, is that correct?

6 A. Again, I've never seen it, but it appears to be a banner.

7 Q. When you say you've never seen it, in what form did you
8 see the documents that went into evidence yesterday?

9 A. I saw --

00:16 10 Q. Just as they were printed out?

11 A. Yes, from our standalone machine.

12 Q. I'm sorry. From your what?

13 A. From our standalone machine at the Washington field
14 office.

15 Q. I'm a little confused. This standalone machine pulls out
16 pieces of -- from this web forum and prints it out?

17 A. Yes.

18 Q. And I assume, since it's a machine, it's got to be told
19 what to pull out?

00:17 20 A. I believe it's programmed, yes, and to -- it's programmed
21 to print out in such a format to where relevant pieces of
22 information are put in an order to where we can organize and
23 use.

24 Q. So who decided what would get pulled out?

25 A. CITU, the unit -- our mother unit.

1 Q. Oh, boy. You've got to help me with this. CID?

2 A. It's CITU. It's Counterterrorism Internet Targeting Unit,
3 out of our headquarters of Counterterrorism. They're our
4 mother unit that we're associated with. We share space at the
5 Washington field office. And when we receive a form and it's
6 put on a standalone machine, we'll have an individual from the
7 corporation called a palantir that will program their search
8 mechanism to bring out the information as we deem most
9 beneficial for us so that we can use it, analyze it.

00:18 10 Q. So I think you said so you pull out information you deem
11 most beneficial to you --

12 A. Yes, ma'am.

13 Q. -- is that correct?

14 A. Yes, ma'am.

15 Q. If there's evidence that is not beneficial but is
16 beneficial to the defendant, do you pull that out?

17 A. I don't know. When we process this information, because
18 we're in -- we're tasked with analyzing so that we can best
19 conduct our investigations. We'll ask the computer programmer
00:18 20 from Palantir -- when I say "we," I mean CITU. That's the
21 headquarters unit. I'm part of --

22 Q. You're not CITU?

23 A. No, I'm not. That's the parent unit to us. I'm part of
24 the Washington field office. So there's two different
25 entities, but we work hand in hand as they support us through

1 our investigations.

2 But what CITU will do with a palantir, to ask them to
3 program our searches. They'll ask them to create a search
4 mechanism for us to pull out what we deem the most important,
5 most relevant, whatever wording, so that we can conduct a
6 successful investigation.

7 Q. So you personally don't know how the standalone machine
8 was programmed for this case?

9 A. No.

00:19 10 Q. Now, let me ask you: As someone who works in this unit,
11 did you get any training or information on Islam?

12 A. I have received training on Islam, yes, ma'am.

13 Q. Have you received training on certain phrases or words?

14 A. On some.

15 Q. On some. And also training on certain people?

16 A. Yeah.

17 Q. Okay. Now, let me go back for a minute. You said that
18 your job is to look at terrorism on the internet?

19 A. Yes.

00:20 20 Q. And do you look --

21 A. Ma'am, if I can clarify, terrorist use of the internet.

22 Q. I'm sorry. Terrorist use of the internet.

23 Is that a unit, by the way? You're not just one
24 person?

25 A. Correct. I'm part of a squad out of the Washington field

1 office.

2 Q. How many people in the squad?

3 A. Approximately 12.

4 Q. So were you looking -- you had never seen Tibyan
5 Publications before you received this information from the
6 standalone machine to bring to this courtroom?

7 A. No.

8 Q. You had not seen it?

9 A. No, I have not.

00:20 10 MS. BASSIL: If we could go further down on -- just
11 pull up all of 417 and if you could focus for a moment on this.
12 Make that bigger.

13 Q. Do you see this right here, Agent?

14 A. Yes, I do.

15 Q. Okay. Are you familiar with that form of sort of drawing
16 or little picture?

17 A. The icon?

18 Q. It's an icon. That's what I was going to ask you.

19 A. You bet.

00:21 20 Q. It's an icon. And you've seen these on forums before,
21 have you not?

22 A. Yes. I've seen different icons on forums.

23 Q. So this document is entitled, "The Benefits of Jihad"; do
24 you see that?

25 A. I do.

1 Q. And are you familiar with the person who wrote it 150
2 years ago?

3 A. No, I'm not.

4 Q. Going back for a moment --

5 MS. BASSIL: We can take this off.

6 Q. Going back for a moment -- let me talk about Tibyan. They
7 had administrators, is that correct, on that forum? Are you
8 familiar with that?

9 A. I believe they did, yes.

00:22 10 Q. All right. And these were people who could agree that
11 something might be posted or not, correct?

12 A. As I understand it, ma'am, they had control of the forum
13 of what went on and what went off, so, yes.

14 Q. And so, for example --

15 MS. BASSIL: If we could pull up Exhibit 430. I think
16 this was an exhibit we looked at yesterday.

17 Q. This is a personal message from ibn Umar?

18 A. Yes.

19 Q. And were you familiar that ibn Umar was an administrator
00:23 20 on Tibyan?

21 A. No, I was not.

22 Q. Now, were you aware that Abu Sabaayaa -- do you see that
23 user name on the bottom?

24 A. Yes.

25 Q. That that was the user name that Tarek Mehanna used?

1 A. Yes.

2 Q. Did you look at other posts in Tibyan posted by Abu
3 Sabaayaa?

4 A. Yes, I did.

5 MS. BASSIL: Your Honor, this is not yet an exhibit,
6 but I've given the government notice of it.

7 MR. CHAKRAVARTY: What is it?

8 MS. BASSIL: This would be the posting from January
9 16, 2005, 15:05:03. I sent you notice of it Sunday night. I
00:24 10 sent you everything I was going to use. I'm sorry?

11 MR. CHAKRAVARTY: You didn't give it to us with --

12 MS. BASSIL: Your Honor, may we approach?

13 THE COURT: All right.

14 (SIDEBAR CONFERENCE AS FOLLOWS:

15 MS. BASSIL: On Sunday, I sent Mr. Chakravarty a list
16 of every document I intended to use in cross-examination of
17 this witness. And things that weren't exhibits I identified by
18 their date and what was, like, a three-spread number so that he
19 could be sure that he had that. Everything came from the
00:25 20 government. These are not things we handed out. I don't know
21 what he means that it wasn't date or time-stamped.

22 I want to say that last night at 10:30 we received
23 hundreds of exhibits that they wanted to put in.

24 THE COURT: Let's deal with this issue.

25 MS. BASSIL: So I sent him Sunday night every --

1 THE COURT: Can I see what it is you want --

2 MR. CHAKRAVARTY: She did send us a list of things she
3 wanted to use. I responded that those three sets of numbers
4 that you were talking about, that was foreign to me. I asked
5 for clarification yesterday, can I see those exhibits?

6 MS. BASSIL: Did you request --

7 MR. CHAKRAVARTY: I sent you an email Sunday night.

8 MS. BASSIL: Yeah, and I sent you back everything with
9 a date.

00:25 10 THE COURT: Let's get to the evidence.

11 MS. BASSIL: Right. This is the date. This is the
12 piece I want to put on, all right?

13 MR. CHAKRAVARTY: With regards to the defendant's
14 posts, the government would have an objection as to hearsay.

15 MS. BASSIL: I would say it goes to his state of mind.

16 THE COURT: Only if it's true.

17 MS. BASSIL: No. It's an exception to the hearsay
18 rule. I'm not offering it for the truth. I'm offering it for
19 his state of mind as to what he was posting in Tibyan.

00:26 20 THE COURT: Well, the state of mind is proved because
21 he says, My state of mind is the following. That would be
22 hearsay. If you can infer his state of mind because he says,
23 What a glorious day, that would not be hearsay.

24 MS. BASSIL: That's correct.

25 THE COURT: I don't know what this is. I have to see

1 it.

2 MS. BASSIL: Well, this one, really, what I wanted to
3 do was to show -- I'm using this merely to show what a thread
4 looks like so the jury understands that.

5 THE COURT: Is this the whole thing?

6 MS. BASSIL: Yeah. He translated that, okay, and then
7 there are people who commented on it afterwards. So I -- I
8 wanted to show how threads work.

9 Now, I also have a number of other items that
00:27 10 specifically are about his views and his state of mind about
11 bombings of innocent people, expelling versus killing people
12 who are Westerners in the Arabian Peninsula. These all go to
13 his state of mind.

14 MR. CHAKRAVARTY: If it's being offered for the true,
15 you're trying to say, What did he believe?

16 THE COURT: No, I don't know that it's a truth
17 statement. In other words, if he says, One should not kill
18 innocent people, that's not a statement of historical fact that
19 would be typically covered by the hearsay rules. That's an
00:28 20 event in a sense.

21 MR. CHAKRAVARTY: But it's an expression of what he
22 believes about whether they should kill people.

23 THE COURT: It's a statement he made, and an inference
24 could be made from the fact -- just like doing an act. You
25 draw an inference of what somebody believes from how they act.

1 MS. BASSIL: This is about inferences about his
2 intent.

3 THE COURT: I only see one --

4 MS. BASSIL: There's one thread and that's a thread
5 and that's a thread. Those are responses by people.

6 THE COURT: I don't see him anymore.

7 MS. BASSIL: No, no.

8 THE COURT: He's just the first one.

9 MS. BASSIL: He's the first one. All I wanted to do
00:28 10 was show how people comment basically.

11 MS. PATEL: I have an email.

12 MR. CHAKRAVARTY: These comments by the other people
13 seem to have no relevance.

14 THE COURT: Again, if you want, I'll tell the jury
15 that these are not offered as statements which they should take
16 to prove an assertion but simply what happened and what people
17 said as a phenomenon.

18 MS. BASSIL: I just want to show people what they look
19 like.

00:29 20 THE COURT: You want that limiting instruction?

21 MS. BASSIL: I know.

22 MR. CHAKRAVARTY: I want that.

23 THE COURT: How much of this is there? Do we have
24 others? I don't want to be back here.

25 MR. CHAKRAVARTY: Your Honor, I looked for it to try

1 to identify some of these posts, and I could not find them. I
2 appreciate --

3 MS. BASSIL: Let me explain this, your Honor. The
4 government sent us a CD.

5 THE COURT: I'm more interested in the evidence. What
6 else do you have today that you want to use?

7 MS. BASSIL: I have about six or seven other posts by
8 the defendant, all right? And what I will tell you is they
9 sent us a CD of Tibyan Publications. They did not send us the
00:29 10 program by which we could open it. It took two days of this
11 tech person opening it. So it may be in a slightly different
12 form than they're used to.

13 THE COURT: If all of the others are like this, it
14 will be the same ruling.

15 MR. CARNEY: I will just ask, the government has
16 indicated that when they are offering these, they're coming in
17 to reflect the state of mind of the defendant also. So I would
18 just ask that this instruction be global because it's applying
19 to both sets of evidence.

00:30 20 MR. CHAKRAVARTY: We're actually introducing it for
21 all purposes, your Honor.

22 THE COURT: I'll have to see what they are. There may
23 be some; there may be some others.

24 MR. CHAKRAVARTY: Do you have copies of those? While
25 you're asking about one, I can see the others.

1 . . . END OF SIDEBAR CONFERENCE.)

2 THE COURT: What you propose to use does not yet have
3 an exhibit number, is that correct?

4 MS. BASSIL: That's correct, your Honor. The next
5 exhibit number would be --

6 THE COURT: 1075?

7 MS. BASSIL: 1075.

8 (Exhibit No. 1075 received into evidence.)

9 Q. Agent Schwartz, in your -- some of the training that you
00:31 10 had, did you learn, for example, what the Qur'an is?

11 A. Yes.

12 Q. Okay. And that is the basic fundamental book of Islam,
13 correct?

14 A. Correct.

15 Q. And did you learn what -- did you learn the term Hadith?
16 And I'll write it out. I think it can be written out two ways.

17 A. Thank you.

18 Q. (Writing). I've seen it both ways.

19 A. Okay. No. I did not receive an explanation of or
00:31 20 definition of that word.

21 Q. All right. So if we could go back to Exhibit 1075, I'm
22 going to put it on here. So if we could zoom up here.

23 You can see it says, "Page 1 of 4," correct?

24 A. Yes.

25 Q. This first page appears to be quotations, an essay,

1 correct, of some sort?

2 A. Yes. It's hard for me -- it's hard for me to see.

3 MS. BASSIL: Can you zoom this part up?

4 THE COURT: No. You can.

5 MS. BASSIL: I have it.

6 THE COURT: Put it on "auto focus."

7 MS. BASSIL: Thank you.

8 Q. This appears to be some sort of essay. It says, "No
9 comment needed. Just read and apply. Allah, the Exalted,
00:33 10 said: Give thanks to Me and your parents"?

11 A. Yes.

12 Q. Do you see the number after it, "31:14"?

13 A. I do.

14 Q. And that refers to a verse in the Qur'an?

15 A. I'm not sure.

16 Q. Okay. Now, of the second page of this, Page 2 of 4.

17 A. Okay.

18 MS. BASSIL: I just want to show this so the jury sees
19 what a thread it.

00:34 20 Q. So someone -- this person, Abu Dujanah, has written a
21 comment?

22 A. Okay.

23 Q. Right? And then this person has written a comment?

24 A. Yes.

25 Q. Right? About his parents?

1 A. Yes.

2 Q. "I believe I might have been not a good boy to my father
3 at times." This is what a thread is; that's what we were
4 talking about, correct?

5 A. Correct.

6 Q. People post different comments?

7 A. Correct.

8 Q. And a thread may have two, three, four, twenty comments,
9 depending on how popular it is or how controversial, correct?

00:34 10 A. Correct.

11 Q. And then at some point it just sort of ends?

12 A. Correct.

13 Q. It ends either just because the subject has been
14 exhausted, correct?

15 A. Correct.

16 Q. Or it ends because an administrator ends it?

17 A. Yeah, it's possible. An administrator can end it.

18 Q. So looking at Exhibit 429 that was put in yesterday --

19 MS. BASSIL: If we can have Exhibit 429. If we could
00:35 20 make it bigger.

21 Q. Now, this was a message from Abu Sabaayaa on March 7,
22 2005, is that correct?

23 A. Correct.

24 Q. And he said, "Well, honestly, I've changed my views on
25 these particular attacks over the past year. The more I think

1 about it, the more I realize that they really didn't accomplish
2 anything beneficial for the Ummah. Are you familiar with the
3 term "Ummah" as meaning the Muslim community?

4 A. No, I'm not.

5 Q. He said, "Rather, they succeeded in turning the much
6 needed moral support of the Muslim masses against the
7 mujahideen." Now, are you familiar with the term "mujahideen"
8 as meaning fighters?

9 A. Yes.

00:36 10 Q. Okay. "...and their cause. On top of all of that, the
11 targets of those attacks (whether this was intentional or not)
12 turned out not to be crusaders." And you're familiar with the
13 use of the term "crusaders" referring to people who invade
14 Muslim lands?

15 A. I've never seen it in that context, but I can understand
16 that.

17 Q. "...but foreign workers (many of them Muslims) who had
18 nothing to do with the real crusaders. I've listened to both
19 sides of the story that A) the targets were disbelievers who
00:36 20 were actively engaged in the occupation of Muslim lands and B)
21 the victims were actually not involved in any type of war
22 against the Muslims and I have only been shown evidence to the
23 latter." Correct?

24 A. Correct.

25 Q. And are you aware of what attack he is talking about?

1 A. No, I'm not.

2 Q. Were you familiar with bombings in Riyadh in Saudi Arabia?

3 A. I've understood that there's been some bombings but which
4 ones and particular dates, no.

5 Q. Did you read the threads before this or the messages
6 before this or the messages after this?

7 A. I don't believe I did. I've read 12 messages, and I don't
8 know if those 12 messages were before or after this message.

9 Q. Well, did you want to understand the content of these
00:37 10 messages?

11 A. No. I understood it was going to be my obligation to
12 explain where these messages came from.

13 Q. But not what they meant?

14 A. No, the context, because I don't know the context of this
15 entire case.

16 MS. BASSIL: Now, if we could have Exhibit 430,
17 please.

18 Q. Now, this is -- "pm" means private message, correct?

19 A. Correct.

00:38 20 Q. And this is from ibn Umar, correct?

21 A. Correct.

22 Q. He said -- there's some language right here. Do you see
23 this?

24 A. Yes.

25 Q. And here and here? And do you know what that means?

1 A. No, I do not.

2 MS. BASSIL: If we could have Exhibit 431, please.
3 And if we could make that bigger.

4 Q. Now, this is dated May 23, 2007, correct?

5 A. Correct.

6 Q. And the message is, "Nobody called the mujahideen
7 ignorant." Again, mujahideen, sometimes that's spelled
8 different ways, but it means fighter, correct?

9 A. Correct.

00:39 10 Q. (Writing). It can be spelled like that. Sometimes it's
11 spelled like that. You've seen it spelled several different
12 ways, correct?

13 A. I have, yes.

14 Q. That's because it comes from the Arabic, and sometimes
15 people, when they translate it, it's spelled different ways in
16 English, correct?

17 A. Correct.

18 MS. BASSIL: And if we could go back to Exhibit 431,
19 please. If we could make it a little bigger.

00:40 20 Q. So this is a message on May 23, 2007, from Abu Sabaayaa in
21 which he says, "Nobody called the mujahideen" -- or the
22 fighters -- "ignorant. Rather, those who kill innocent Muslims
23 were the ones being addressed as such. There's a difference
24 between the two." Do you see that?

25 A. Yes, ma'am.

1 Q. And you would take that to mean that he is saying people
2 who kill innocent Muslims are ignorant?

3 A. I would see that meaning, yes.

4 MS. BASSIL: Your Honor, at this time I'm going to
5 show a posting which has not been marked as an exhibit. Let me
6 put it up here.

7 MR. CHAKRAVARTY: We'd like to approach, your Honor.

8 THE COURT: Yeah.

9 (SIDEBAR CONFERENCE AS FOLLOWS:

00:42 10 THE COURT: Is this it?

11 MR. CHAKRAVARTY: That's the exhibit.

12 Your Honor, first, this is a chain-of-custody witness
13 which we had to call because they wouldn't stipulate. He's
14 done nothing but look at specific posts which we offered. Now
15 he's being crossed on everything -- the Tibyan Publications,
16 either the material he looked at or the last exhibit, things
17 that he didn't look at, the substance of which is, in fact, a
18 communication by someone else, not --

19 THE COURT: The question I was having is
00:43 20 authentication.

21 MS. BASSIL: First of all --

22 THE COURT: Can you tell us what this is?

23 MS. BASSIL: Sure. He's the one who has the disk of
24 Tibyan Publications.

25 THE COURT: Well, having the disk and having

1 recognized the document are two different things. If you want
2 to ask him whether he produced these, then he can go ahead and
3 talk about them. But if he didn't do it --

4 MR. CARNEY: Your Honor, I don't think the government
5 is contesting that this is not an authentic document from
6 Tibyan because they provided it to us.

7 THE COURT: Well, it would have -- that's one step.
8 It would have to be authenticated, and it would have to be
9 something within this witness' familiarity. If he was asked to
00:43 10 pull off a set of identified postings and he did that, that's
11 really the scope of what he's able to testify about. If he had
12 custody of disks from which other postings might have been
13 drawn, but he didn't draw them, I don't think he can say
14 anything about them. He's not an expert on the Tibyan site,
15 apparently. He said --

16 MS. BASSIL: He started out as that. Frankly, I
17 thought he was because he said he was an expert on internet --
18 use of the internet by terrorists.

19 THE COURT: The foundation isn't there for him to talk
00:44 20 beyond the exhibits that he's introduced at this point.

21 MS. BASSIL: Here's what I would say. This went in as
22 business records, all right? They put in the certificate that
23 these were authentic. The whole disk went in.

24 MR. CHAKRAVARTY: The disk is not in evidence. The
25 disk is authenticated. Typically, that means that you would

1 have to call witnesses and say I --

2 THE COURT: I think he can only talk about the
3 documents he put into evidence.

4 MS. BASSIL: I thought you put everything in evidence,
5 and we have to move to strike. Wasn't that what happened
6 yesterday?

7 THE COURT: We left that a little bit hanging. That
8 was about the photographs from the other matter anyway.

9 MR. CARNEY: May I make a statement, your Honor? This
00:44 10 witness was introduced as being an expert --

11 THE COURT: No, no, he wasn't. That was his
12 background. That's the office he worked --

13 MR. CARNEY: May I finish my sentence?

14 THE COURT: His foundation testimony was how he
15 received the search materials from Detroit, was instructed to
16 take stuff off them and did so. He's then saying these are the
17 things I extracted.

18 MR. CARNEY: What I'm referring to, your Honor, is he
19 said he is an expert in the use of the internet by terrorists.
00:45 20 This is the use of the internet by terrorists, and so it's
21 within his realm of expertise.

22 THE COURT: No. The objection --

23 MR. CARNEY: We can show him a document that he's
24 never seen, and as long as it is an authenticated, which this
25 one is, we can ask him questions about it because it is

1 directly within his area of expertise.

2 THE COURT: If it impeaches his testimony that he took
3 the particular identified documents off the disk, I would allow
4 it. But as expanding beyond that, it's well beyond the scope
5 of direct and beyond the scope of what his qualifications seem
6 to be.

7 MS. BASSIL: Let me make an offer of proof, please.

8 What I will do is at the break I'll submit the documents that I
9 would have put in.

00:46 10 THE COURT: Fine.

11 MS. BASSIL: But my offer of proof is this: This is a
12 man who says he's part of a 12-person squad on the use of the
13 internet by terrorists. The government has identified or will
14 identify Tibyan Publications as sort of one of the most -- I
15 don't know what you want to call it -- dangerous websites or
16 terrorist websites. They have selected little pieces of things
17 to put into evidence without selecting anything, according to
18 him, that might have been exculpatory or helpful to the
19 defendant. I have documents that show -- basically they would
00:46 20 list all of the defendant's views about that killing of
21 innocent Westerners who are in the Mideast, in Iraq, is not
22 acceptable.

23 THE COURT: I understand all that. I'm not saying
24 that these can never go in. I'm saying they can't go in
25 through this guy. Maybe there's another witness that they will

1 get them in but not him.

2 MR. CARNEY: May I address that point very briefly?

3 Here's the dilemma for us. We don't have any way to access
4 these documents independently ourselves. The only way we know
5 about these documents is the government has authenticated them
6 and given them to us. That's the only way that we know these
7 are authentic documents, that say what they say.

8 And so if we're in a position where we can't get these
9 documents in through the same person they're offering the
00:47 10 documents in, we're hamstrung. There's no doubt that they're
11 authentic.

12 THE COURT: Noted. Anyway, they're excluded. They
13 can be marked for identification. You'll follow the sequence,
14 1076, 1077, whatever. Let the clerk know how far up that goes.
15 . . . END OF SIDEBAR CONFERENCE.)

16 Q. Mr. Schwartz, were you aware of how many posts in total
17 there were on Tibyan?

18 A. No.

19 Q. Were you aware of when Tibyan started as an internet site?

00:48 20 A. No.

21 Q. Were you aware -- is it still on the internet?

22 A. I don't know.

23 Q. Were you aware of whether it was shut down at some point?

24 A. No, I was not.

25 Q. Do you know how many people had passwords to Tibyan?

1 A. No.

2 Q. Do you know how many people posted messages or documents
3 on Tibyan?

4 A. No.

5 Q. If we were -- if you were to print out -- if you had told
6 the standalone machine to simply print out everything that was
7 on -- I take it you received it as a disk, a CD?

8 A. I did not receive it as a disk, but it would arrive to our
9 squad and then to our parent unit as a disk.

00:49 10 Q. So it arrived as a CD?

11 A. It did, yes.

12 Q. If the standalone machine had been told to print out
13 everything on the CD, do you have any idea of how many pages it
14 would be?

15 A. No.

16 Q. You did not read -- how many pages did you read?

17 A. Twelve posts.

18 Q. Twelve posts. And did -- did the government -- did the
19 prosecutors select those 12 posts for you to read?

00:50 20 A. Yes. Let me also clarify. I believe I also read a couple
21 more as we first started to process just to ensure that we were
22 receiving text. But it was just to check for the text.

23 Q. That was just to make sure that it was clear, it was a
24 text, it was readable, correct?

25 A. Yes.

1 Q. You weren't reading for content?

2 A. No.

3 Q. You weren't reading for a person, for who was writing it?

4 A. No.

5 Q. And you weren't reading it to try to determine what their
6 views were or anything of that nature?

7 A. No.

8 Q. Now, were you aware that Mr. Mehanna was banned from
9 Tibyan?

00:50 10 A. No.

11 Q. Were you aware that administrators had the power to ban
12 someone from Tibyan?

13 A. No. I didn't know the rules and regulations on this
14 particular forum.

15 MS. BASSIL: I have no further questions.

16 MR. CHAKRAVARTY: Just briefly, your Honor.

17 REDIRECT EXAMINATION BY MR. CHAKRAVARTY:

18 Q. Mr. Schwartz, did you have any familiarity with this
19 investigation or the Tibyan Publications before you were asked
00:51 20 to find those 12 posts?

21 A. Yes.

22 Q. What was your familiarity?

23 A. We have an open case on our squad, Tibyan Publications.
24 I'm not the case agent, but I was aware that there was a search
25 warrant being drafted. Then I was aware that we received

1 Tibyan Publications for the standalone machine. Then I was
2 aware that searches were requested to be conducted on that.
3 And those -- and that's when I became an active participant in
4 the investigation, by conducting those searches.

5 Q. Were you aware that a copy of that site was made available
6 to the prosecutors in Boston?

7 A. Yes.

8 Q. You're aware that that copy of the site was given to the
9 defense as well?

00:52 10 A. Yes.

11 Q. And the specific 12 posts that you selected -- that you
12 were asked to select, is that from that disk that you had sent
13 up to Boston?

14 A. Yes.

15 Q. When did you join the CT9 squad?

16 A. Approximately 24 months ago. It was in October 2009.

17 Q. So that's October of 2009?

18 A. Yes.

19 Q. If the Tibyan Publications site was down in October of
00:52 20 2009, you would have no reason to go on it, is that right?

21 A. No, no, no, because my investigative requirements wouldn't
22 require me to.

23 MR. CHAKRAVARTY: That's all I have, your Honor.

24 RECORDING-EXAMINATION BY MS. BASSIL:

25 Q. Mr. Schwartz, in your 12-person squad, is there anyone on

1 that squad who does know about Tibyan Publications, knows about
2 its content, its people, and so forth?

3 A. I don't know.

4 Q. You said these 12 posts, these were ones that the
5 prosecutors asked you to pull out?

6 A. No. These are the ones -- once we've conducted a search
7 on the forum using keywords and user names, we'd put them into
8 a shared drive that they had access to. Then Boston field
9 office pulled these 12.

00:53 10 Q. What I noticed at least -- correct me if I'm wrong -- what
11 these seem to have in common is they have the name Abu
12 Sabaayaa?

13 A. Yes.

14 Q. Was that one of the search terms?

15 A. Yes.

16 MS. BASSIL: I have no further questions.

17 THE COURT: All right, Agent. Thank you. You may
18 step down.

19 THE WITNESS: Thank you, sir.

00:53 20 MR. CHAKRAVARTY: The government calls John Cauthen.

21 THE COURT: I'm sorry, the name?

22 MR. CHAKRAVARTY: Cauthen.

23 JOHN CAUTHEN, Sworn

24 THE CLERK: Please be seated. State your name and
25 spell your last name for the record.

1 THE WITNESS: My name is Special Agent John Cauthen,
2 C-a-u-t-h-e-n.

3 DIRECT EXAMINATION BY MR. CHAKRAVARTY:

4 Q. Good morning. Where do you work, sir?

5 A. I work for the FBI, in the Sacramento division,
6 California.

7 Q. How long have you been an FBI -- in what capacity, sir?

8 A. I'm currently a cyber agent, special agent. I do computer
9 intrusion investigations and forensic examinations on computers
00:55 10 as a CART examiner.

11 Q. How long have you been an agent?

12 A. Since 1996.

13 Q. I'm sorry. 1996?

14 A. Since 1996.

15 Q. How long have you been doing cyber and CART duties?

16 A. I've been doing cyber since the FBI started the cyber
17 program. I think it was in 2004. I've been a forensics
18 examiner since 2008.

19 Q. Are you familiar with the Tibyan Publications website?

00:55 20 A. I am.

21 Q. Are you an expert on the Tibyan Publications website?

22 A. If an expert is defined as someone who has above average
23 knowledge, I would assume that I am, yes.

24 Q. So what role did you have with regard to Tibyan
25 Publications in terms of obtaining the data from Tibyan

1 Publications?

2 A. In 2004, I was investigating computer intrusions involving
3 cyber terrorism. One of the subjects I was investigating
4 created that website, and I was investigating him.

5 Q. Did you know where the data that was on the website, the
6 web forum, where that was located?

7 A. In terms of physically located?

8 Q. Physically located.

9 A. Yes.

00:56 10 Q. Was there such a location hosted by the SurfSpeedy, Inc.?

11 A. That's correct.

12 Q. Where was that located?

13 A. The company was located in Detroit, Michigan. The actual
14 server data itself was in Texas.

15 Q. Where were you based -- did you have interaction with the
16 company?

17 A. I did.

18 Q. At some point, did you receive a search warrant for the
19 Tibyan Publications website?

00:57 20 A. Yes.

21 Q. When was that?

22 A. That was in the fall of 2005, I believe.

23 Q. The fall or the winter?

24 A. Well, the search warrant -- I guess it would have been
25 winter, December.

1 Q. What was the search warrant for?

2 A. The search warrant was to essentially search the data on
3 the server hosting that website.

4 Q. Was that the SurfSpeedy -- owned by SurfSpeedy?

5 A. Yes, sir.

6 Q. Did you serve them with a search warrant?

7 A. I didn't serve it. That was another agent who actually
8 served. I actually assisted with providing the information to
9 obtain the search warrant, and then I received the data from
00:57 10 the company.

11 Q. In what form did you receive the data in?

12 A. On a disk, a DVD disk.

13 Q. When did you receive that data? When was the server
14 information given to you, like, captured?

15 A. Well, the search warrant was actually for a couple of
16 disks, but the SurfSpeedy sent me, responsive to that warrant,
17 a DVD. On December 23 of 2005, I received that disk. And I
18 believe the data capture was approximately December 16 of 2005.

19 MR. CHAKRAVARTY: May I approach, your Honor?

00:58 20 THE COURT: You may.

21 Q. Handing you an envelope, can you just open that and
22 familiarize yourself with it.

23 A. Yes. I'm familiar with this.

24 Q. What is it?

25 A. This is the DVD that I received from the SurfSpeedy

1 company. There's a copy of the search warrant, an affidavit,
2 as well as a cover sheet. And then there's the pieces of FedEx
3 envelope that I cut out when I received it from SurfSpeedy.

4 MR. CHAKRAVARTY: I'd like to call up 747.

5 Q. Are you familiar with what this is?

6 A. Yes, I am.

7 Q. What is that?

8 A. That's a Certificate of Authenticity of business records
9 from SurfSpeedy, or the owner of SurfSpeedy.

00:59 10 Q. Does that correspond to that CD that you received back in
11 2005?

12 A. Yes, it does.

13 Q. This certificate was created some time later, before
14 trial, is that right?

15 A. Yes.

16 Q. What did you do with that DVD after you received it?

17 A. After I received it, I checked it into evidence.

18 Q. And then did you cause it to be sent anywhere?

19 A. At a later date, it was sent to the Atlanta division.

01:00 20 Q. Who in the Atlanta division?

21 A. I'm not entirely positive. I believe it was Special Agent
22 Michael Scherck.

23 Q. Michael Scherck?

24 A. That's my recollection, but I don't -- it could have
25 actually been technically sent to someone else, but the intent

1 was to send it to a case agent in Atlanta.

2 Q. Did you exploit any data on that?

3 A. In the sense of exploiting, you mean just look at it?

4 Q. Yes.

5 A. Yes, we did. We made copies and we reviewed the data that
6 came from there.

7 MR. CHAKRAVARTY: That's all I have, your Honor. I'm
8 sorry. I would tender 747.

9 THE COURT: Any objection to the certificate?

01:00 10 MS. BASSIL: I thought that was already an exhibit. I
11 think we didn't object the last time.

12 THE COURT: Similar, I think.

13 MS. BASSIL: Oh, similar. No.

14 THE COURT: Okay. 747 is admitted.

15 (Exhibit No. 747 received into evidence.)

16 CROSS-EXAMINATION BY MS. BASSIL:

17 Q. Good morning.

18 A. Good morning.

19 Q. Agent Cauthen, I kind of missed your description of what
01:01 20 you did. I got cyber agent, and then I kind of lost it.

21 A. Okay.

22 Q. What's a cyber agent?

23 A. In the FBI we have cyber squads, and the purpose of a
24 cyber squad is to investigate crimes involving computers,
25 specifically computer intrusions, that is, people that are

1 accessing a computer without authorization, in violation of
2 law.

3 Q. So, like, somebody who hacks into a computer?

4 A. That's correct.

5 Q. Okay. And cyber refers to computers basically?

6 A. Essentially, that's correct.

7 Q. I think you also mentioned something else. Were you part
8 of a CART team? I was a little unclear.

9 A. In that era, in the fall and winter of 2005 and -- 2004
01:02 10 and 2005, I was not CART certified. CART stands for Computer
11 Analysis and Response Team. It's essentially the people that
12 do the forensic examinations of computers. My certification
13 came after that.

14 Q. Now I get it.

15 Now, you were asked if you have knowledge about Tibyan
16 Publications or Tibyan?

17 A. Yes, ma'am.

18 Q. And you said, if that means above average knowledge, yes,
19 you do?

01:02 20 A. By comparison to the general public. I haven't been
21 certified as an expert in an -- on this particular website by
22 any third-party agency or anything. So I'm not quite sure what
23 you mean by an expert, but I'm familiar with it and I've
24 investigated it and --

25 Q. Are there certifications in being an expert on third-party

1 websites?

2 A. I'm not aware of any.

3 Q. Okay. So you've examined -- and what I noticed is the CD
4 or the disk that you have, I think you said that that covered
5 whatever was on Tibyan until December 16, 2005?

6 A. Well, it's as of a particular date. So it was captured as
7 of a particular date.

8 Q. And do you know what date it started? In other words, you
9 have documents from Tibyan Publications from what date until
01:03 10 December 16, 2005?

11 A. I'm not sure of the beginning date.

12 Q. Okay. Do you know when it started as a forum?

13 A. Off the top of my head, I don't recall.

14 Q. Are you familiar with -- are you familiar with it as -- as
15 to how it's structured?

16 A. In terms of the -- as an SQL database and what operating
17 system was on the server and that type of question?

18 Q. You're going to lose me. Let me ask a more basic
19 question.

01:04 20 Did you know that there were people on there who were
21 administrators?

22 A. Yes.

23 Q. And that they could control what went on the website and
24 what didn't go on the website?

25 A. Yes.

1 Q. And that they could also remove people from being on the
2 website?

3 A. That's correct.

4 Q. And were you familiar -- did you read the different posts
5 on Tibyan Publications? Have you read them?

6 A. Indirectly.

7 Q. What do you mean by "indirectly"?

8 A. What I would review is other analysts' interpretations of
9 what they had on the website and as well as the specific files
01:04 10 that I would get from a disk such as this.

11 Q. So in terms of this case, did you look at specific
12 postings on that CD or from that CD?

13 A. Yes.

14 Q. What specific postings did you look at?

15 A. I don't have a recollection in general. My focus was on a
16 subject in England, and so I was focused on those types of
17 postings.

18 Q. Were you focused on Tarek Mehanna?

19 A. No.

01:05 20 Q. Were you familiar with his screen name of Abu Sabaayaa?

21 A. No.

22 Q. Were you familiar with -- that there were different views
23 expressed on that website?

24 A. Am I --

25 Q. Let me try to clarify. Bad question.

1 Were you familiar that people posted their opinions?

2 A. Yes.

3 Q. And they posted their opinions about different events that
4 might have happened in the Mideast or in the United States or
5 elsewhere?

6 A. Yes.

7 Q. And they posted their opinions about a particular piece of
8 -- a particular piece of theology or a particular piece of
9 Islamic law?

01:06 10 A. Correct.

11 Q. And there were some people, you are familiar with, who had
12 what I would call more extremist views; are you familiar with
13 that?

14 A. Of course.

15 Q. And there were some people who had more moderate views,
16 correct?

17 A. Yes.

18 Q. There was a gamut or a range of people's opinions about
19 politics in the Mideast, for example?

01:06 20 A. Okay.

21 Q. Yes?

22 A. Well, I'm trying -- I just want to be completely accurate
23 as I answer the question.

24 Q. Take your time.

25 A. If you're asking -- I'm -- can I ask you a question to

1 clarify your question?

2 Q. Well, you're not supposed to, but I'll let you.

3 A. I'm sorry. If I understand your question, is you're
4 trying to understand what is the range of opinions on the --
5 posted on the websites?

6 Q. That's correct. And let me rephrase it.

7 In looking at the website, you are aware that there
8 were some people who had extreme opinions such as all Americans
9 should be killed?

01:07 10 A. Yes.

11 Q. And there were some people who had opinions no Americans
12 should be killed?

13 A. Well, I can only say what I saw that was posted on there
14 in terms of postings, but I saw postings of both banes on the
15 website.

16 Q. And everything in between?

17 A. I didn't look at every single posting, so I can't tell you
18 exactly.

19 Q. Now, let me ask you, by the way, you were -- you said that
01:07 20 you were investigating someone who posted on Tibyan, correct?

21 A. Yes.

22 Q. Tibyan Publications -- Tibyan as a website was not
23 illegal, correct?

24 A. Well, you know, I'm not a lawyer.

25 Q. Okay. I'll leave it at that.

1 MS. BASSIL: I have no further questions.

2 THE COURT: Redirect?

3 MR. CHAKRAVARTY: Very briefly.

4 REDIRECT EXAMINATION BY MR. CHAKRAVARTY:

5 Q. Agent Cauthen, you were asked about the range of views on
6 the Tibyan Publications. Can you clarify --

7 A. Yes.

8 Q. -- what your understanding is of the range of views that
9 was on Tibyan Publications?

01:08 10 A. Well, to give you an analogy, in my opinion, okay, the
11 website itself was tilted towards extremist views; and,
12 therefore, even what might appear to be a moderate view in the
13 context of an extremist website, I can't personally
14 characterize that as a moderate view.

15 Q. When we're talking about "extreme" and "moderate," what
16 are we talking about?

17 A. You're talking about an Islamist, you know, anti-American
18 type of viewpoint.

19 Q. Specifically with regards to Jihad and violence --

01:09 20 MS. BASSIL: Objection. Beyond the scope.

21 THE COURT: Well, it's -- I think it's within the
22 scope, but I'll sustain the objection anyway. I think we've
23 gone too far with this.

24 MR. CHAKRAVARTY: That's all I have.

25 RECROSS EXAMINATION BY MS. BASSIL:

1 Q. Agent Cauthen, you said it was a place with extremist
2 views. Were you aware the defendant was kicked off of Tibyan?

3 A. No.

4 MS. BASSIL: Thank you.

5 THE COURT: All right, Agent. Thank you. You may
6 step down.

7 MR. CHAKRAVARTY: The government would call Veera
8 Boonyasait.

9 VEERA BOONYASAIT, Sworn

01:10 10 THE CLERK: Please be seated. State your name and
11 spell your last name slowly for the record.

12 THE WITNESS: My name is Veera Boonyasait,
13 B-o-o-n-y-a-s-a-i-t.

14 THE CLERK: Your first name, sir?

15 THE WITNESS: Veera, V-e-e-r-a.

16 THE CLERK: Thank you.

17 DIRECT EXAMINATION BY MR. CHAKRAVARTY:

18 Q. Good morning.

19 A. Morning.

01:10 20 Q. Mr. Boonyasait, where do you work?

21 A. I work at the Federal Bureau of Investigations, at the
22 Miami field office.

23 Q. How long have you worked for the FBI?

24 A. I have worked at the FBI for about six and a half years.

25 Q. In what capacity do you work there?

1 A. I work as an intelligence analyst.

2 Q. So you're not a special agent?

3 A. No, I am not.

4 Q. Before you went to the FBI office in Miami, where were you
5 assigned?

6 A. I was a graduate student researcher at the University of
7 Florida.

8 Q. I'm sorry. Before you went --

9 A. Yes. I worked at the -- at the FBI headquarters in
01:11 10 Washington, D.C.

11 Q. In what unit did you work at FBI?

12 A. I worked at the Counterterrorism Internet Targeting Unit.

13 Q. What is the Counterterrorism Internet Targeting Unit?

14 A. Our goal is to detect, deter, dismantle and disrupt
15 individuals or groups of individuals who exploit the internet
16 to conduct terrorist activities.

17 Q. And you are a headquarters-based unit?

18 MR. CARNEY: Your Honor, may I have one moment,
19 please?

01:12 20 (Discussion held off the record.)

21 MR. CARNEY: Just a microphone issue, your Honor.

22 MR. CHAKRAVARTY: Thank you.

23 Q. Are you familiar with a squad in the Washington field
24 office of the FBI called CT9?

25 A. Yes, I am.

1 Q. Did the CITU work closely with CT9?

2 A. Yes, we do.

3 Q. Before you became -- joined the FBI, what did you do?

4 A. I was a graduate student at the University of Florida.

5 Q. What level of education do you have?

6 A. I have a Ph.D.

7 Q. In what subject?

8 A. Astronomy.

9 Q. Do you use that degree in your FBI activities?

01:13 10 A. Not really.

11 Q. When you were at the CITU, what was your role?

12 A. I was also an analyst, and we provided support in -- to
13 facilitate the investigations of the terrorist youth of the
14 internet.

15 Q. Specifically, do you have experience in reconstructing
16 internet websites -- or web forums, I should say?

17 A. Yes, I do.

18 Q. Describe what that is for the jury.

19 A. The reconstruction of a website basically consists of
01:13 20 obtaining the database and other data that originally was --
21 made up the website. Once we obtain that set of data, I took
22 the data, put it into an isolated machine that was free from
23 the internet. I analyzed the data.

24 Once I was sure that the data constituted the bulk of
25 the content of the website in which we were trying to

1 reconstruct, then I would use a suite of software to
2 reconstruct the website, meaning that if it's a password
3 protected forum, website, I would have to change the password
4 so that it's viewable and accessible to anyone who needed to
5 look at the website.

6 Q. Is that what you did with regard to this case?

7 A. Yes, I did.

8 Q. Can you explain to the jury how a website -- excuse me, a
9 web forum is different than a website?

01:14 10 A. Sure. Traditionally, a website, like, say, CNN.com, is
11 typically a -- the owner of that website will push out the
12 data. It publishes out the data to you. However, a web forum
13 is usually user content provider, so -- meaning that the
14 members of the forums will provide the content in their
15 discussions and messages.

16 Q. You mentioned earlier that there were some forums that are
17 password protected?

18 A. Correct.

19 Q. Can a member of the public access that website if they
01:15 20 don't have a password?

21 A. No.

22 Q. How does one get a password?

23 A. By registering at the website.

24 Q. So that the people who run the website will send them a
25 password?

1 A. No. They have to register at the website much like, say,
2 for example, like, Facebook. You sign up for an account, and
3 you provide your own password to that account. Then once you
4 are registered for the website, then you either wait for the
5 confirmation or permission to enter the website.

6 Q. I guess my question is: Does everyone who seeks to
7 register on the website, are they allowed access on the
8 website?

9 A. No, not always.

01:15 10 Q. Are you familiar with something called a "user ID"?

11 A. Yes, I am.

12 Q. What is that?

13 A. A user ID is basically like the social security number of
14 a user of a forum. It's unique. It's a very good way of
15 identifying a specific user of a forum.

16 Q. So that's a way of identifying people regardless of what
17 name they use on the web forum?

18 A. Correct. Like, in Facebook, you can have multiple
19 names -- you can have multiple John Smiths in Facebook. But
01:16 20 each John Smith will have a user ID uniquely assigned to that
21 account.

22 Q. Are you familiar with something called "private
23 messaging"?

24 A. Yes, I am.

25 Q. What is that?

1 A. A private message is basically a message that is sent from
2 an individual to another individual or groups of individuals.
3 And only those sets of individuals will receive the message,
4 and it's not publicly sent to everyone in the website.

5 Q. Is that in contrast with a public post?

6 A. Yes. A posted message is a message written at a specific
7 forum of the website so that everybody who has access to that
8 forum will be able to read the message.

9 Q. When a private message is sent on a web forum, is there
01:17 10 also a collateral email or some other message sent to -- an
11 email address that might be registered with the forum?

12 A. No. Typically, a private message is internally bound and
13 kept inside the forum of the website itself.

14 Q. But different forums may react differently with regard to
15 that?

16 A. Yes, typically.

17 Q. With regards to this investigation, are you familiar with
18 the at-Tibyan Publications website?

19 A. Yes.

01:17 20 Q. What was your role with regards to the at-Tibyan
21 Publications website?

22 A. I was provided the data for the website, and I made the
23 reconstruction to the website.

24 Q. So this is one of the sites that you had reconstructed?

25 A. Yes.

1 MR. CHAKRAVARTY: May I approach, your Honor?

2 THE COURT: You may.

3 Q. Handing you 1B59, can you just open that and see if
4 there's a compact disk there, or a DVD?

5 Do you have that DVD in front of you?

6 A. Yes, I do.

7 Q. Do you recognize that?

8 A. Yes. This is the CD that contains the database from the
9 Tibyan Publications web-hosting company.

01:18 10 Q. Is that web-hosting company SurfSpeedy?

11 A. Yes, it is.

12 Q. When was the first time that you saw the data that was on
13 that CD?

14 A. This actual CD?

15 Q. The data that was on that CD, when did you first see it?

16 A. I saw it in the middle of 2009.

17 Q. The particular CD in front of you, that is not the exact
18 one that you saw?

19 A. No, it is not.

01:19 20 Q. But have you confirmed that that CD is the same as the one
21 you saw?

22 A. Yes, I have.

23 Q. Did you, in fact, reconstruct that website?

24 A. Yes, I did.

25 Q. What did you do to reconstruct it?

1 A. In order to reconstruct Tibyan Publications, I had to make
2 sure that it was, indeed, a password protected forum. And once
3 I determined it was a password protected forum, I then had to
4 make the password changes so that all the accounts were
5 accessible to whoever wanted to review the website. So I made
6 the necessary edits to the passwords and changed the passwords
7 to all the accounts.

8 Once I made that, then I had to make the edits to the
9 links for the website so that it pointed back to the database
01:19 10 in which we obtained, not out -- typically, links to a website
11 will link back to the forum -- link back to the website that's
12 on the internet. But because we wanted to reconstruct the
13 website and keep the data inside and isolated on -- on this
14 isolated machine, I had to make the links point back to that
15 database that we were using. And those were the two edits that
16 I made.

17 Q. Did that effectively result in a snapshot of the website
18 as it appeared?

19 A. Yes, at the time when the data was preserved and sent to
01:20 us.

21 Q. What was the date of the preservation?

22 A. That was on December 16, 2005.

23 Q. Anything before December 16, 2005, if it hadn't been
24 deleted, should have been on that database?

25 A. Yes.

1 Q. In addition -- when you created the reconstructed website,
2 describe for the jury what it appeared like from a user
3 experience.

4 A. It -- when I reconstructed the website, the first thing
5 that a person would see, having access to the data, would be
6 the login page. Once you provided the user name, as well as
7 the password that I made known to everybody who was reviewing
8 the data, they could log in. Once they're logged in, they were
9 basically inside Tibyan Publications at the time of when the
01:21 10 data was preserved. And from there, they could navigate
11 through the various forums, read the messages and private
12 messages and so on.

13 Q. So you could look at everybody's account and read every
14 message?

15 A. Yes.

16 Q. Unless the message was deleted, I suspect?

17 A. Yes.

18 Q. So did you become familiar with the organizational
19 structure within the administration of the Tibyan Publications
01:21 20 website?

21 A. Yes. I became somewhat familiar, yes.

22 Q. Were there various levels of status with regards to the
23 users of the site?

24 A. Yes, there were.

25 Q. Describe what elevated status or privileges are.

1 A. Right. Certain members of the forum have special
2 privileges or elevated status so that they could make certain
3 posts or edits and so on. For example, you had the
4 administrator group in which they have access -- total access
5 and control to everything on the website. Then you had the
6 moderator group who could moderate the messages that were
7 posted at the website and so on. And then you had the Tibyan
8 Publications group in which they were given that role, and they
9 could provide translations and any other types of document
10 facilitation. And you also had the techie group which provided
11 technical assistance to the other users of the group.

12 Q. Now, with regards to this case, from that December 16,
13 2005, snapshot of the site, were you asked to extract certain
14 posts and private messages as exhibits in this case?

15 A. Yes.

16 Q. Are those exhibit numbers 410 through 427?

17 A. Correct.

18 Q. Have you had an opportunity before your testimony to see
19 Exhibits 410 through 427?

01:23 20 A. Yes, I have.

21 Q. Are those fair and accurate depictions of posts and
22 private messages that appeared on the disk that you had seen
23 back in -- back when you did this analysis?

24 A. Yes, they are.

25 MR. CHAKRAVARTY: I would move into evidence Exhibits

1 410 through 427.

2 MR. CARNEY: No objection, your Honor.

3 THE COURT: All right. Those exhibits are admitted,
4 410 through 427.

5 (Exhibit Nos. 410-427 received into evidence.)

6 Q. Mr. Boonyasait, I'm going to draw your attention first to
7 user name Abu Sabaayaa. Did you see that when you extracted
8 those exhibits?

9 A. Yes, I did.

01:24 10 Q. Did you identify a user ID with that account?

11 A. Yes, Abu Sabaayaa's ID is 214.

12 MR. CHAKRAVARTY: 412, please.

13 Q. Again, for the benefit of the jury -- and Miss Bassil was
14 kind enough to do some of this. But this is the banner that
15 appeared on all of the -- on the page -- on the pages of the
16 Tibyan Publications, is that right?

17 A. Yes.

18 Q. And the user who is posting was in the left-hand corner?

19 A. Yes, that's correct.

01:25 20 Q. So reading what's -- what I've just enlarged here, can you
21 explain what each piece of data is for the jury?

22 A. Sure. At the very top is the title of the post, which is
23 called, "The Importance of the Word"; the 4-13-2005 is the time
24 stamp which the post was made; Abu Sabaayaa, the link to his
25 profile; at-Tibyan Publications is the group the member was

1 associated with; and then you had the icon, or the avatar,
2 associated with the user account; join date is the date in
3 which -- the month in which Abu Sabaayaa signed and registered
4 for Tibyan Publications; and the number of posts are listed at
5 the bottom for Abu Sabaayaa.

6 Q. The number of posts reflects the number of posts that he
7 had posted on Tibyan Publications at that point?

8 A. Correct.

9 Q. You mentions this was a link. So if this were the active
01:26 10 website, if I clicked on this name, then his user profile would
11 come up?

12 A. Yes.

13 Q. And then this is a document that he had posted?

14 A. Correct.

15 MR. CHAKRAVARTY: Can we go to the next page and the
16 next page and the next page.

17 Q. So this appears to be a four-page post by the user Abu
18 Sabaayaa, is that right?

19 A. Correct.

01:26 20 Q. And then after that, one post ends and then another post
21 begins, correct?

22 A. Correct.

23 Q. Is that accurate?

24 At the end of the first post, there is also some data
25 on here. Can you explain what that means?

1 A. Sure. Whenever a post is edited either by the original
2 person who posted the message or by a moderator, someone with
3 an elevated status, the time stamp of the edit is put at the
4 bottom of the message, as shown here.

5 Q. Who was given privilege to make an edit to a post?

6 A. Either the original poster or a moderator, an
7 administrator of the forum.

8 Q. With regards to user 214, Abu Sabaayaa, did you determine
9 which user groups and what the status was of this individual?

01:27 10 A. Yes. The individual was listed as a moderator, part of
11 the at-Tibyan Publications group, as well as the techie group.

12 Q. Were there other members of the Tibyan Publications user
13 group?

14 A. Yes, there were.

15 Q. Do you recall the names or user IDs of those individuals?

16 A. Yes. They were Al-Fudayl.

17 Q. Is that -- I'll spell it. A-l, hyphen, F-u-d-a-y-l?

18 A. Correct.

19 Q. And was that person -- did that person have an email
01:28 20 address of alhalabe@hotmail.com?

21 A. @hotmail.com, correct.

22 Q. Do you remember the user ID for that number?

23 A. 19. Then you also had user member ID No. 50, who was Abu
24 Huthayfah. You have also Abu Ja'far, user ID No. 971; email
25 address was wamughal@hotmail.com. You also have as member of

1 the at-Tibyan Publications Aboo Khubayb al-Muwahhid. The user
2 ID was 525. His email address -- his or her email address was
3 muwahhid@hotmail.com.

4 Q. Is that almuwahhid@hotmail.com?

5 A. Yes, it was.

6 Q. You also have Abu -- Abu Saqr, the user ID was 1305, but
7 there was no email address associated with that one. And all
8 of these people were part of the Tibyan Publications sub-user
9 group?

01:30 10 A. Yes.

11 Q. What was the subject matter of that user group?

12 A. That was a group that published or provided translations
13 to Arabic books and publications.

14 Q. So that wasn't necessarily the kind of discussion forum
15 aspect of the Tibyan Publications website?

16 A. No.

17 Q. Are you familiar with a user named ibn Umar?

18 A. Yes, I am.

19 Q. Who's that?

01:30 20 A. Ibn Umar was an administrator of Tibyan Publications.

21 Q. Was he user 429?

22 A. Yes, he was.

23 Q. And was his email address webmaster@attawheed.com?

24 A. Yes, it was.

25 Q. In fact, that at-tawheed.com, was that another version of

1 the website address for Tibyan Publications?

2 A. Yes, it was.

3 Q. Are you also familiar with a user named Abu Dujanah?

4 A. Yes, I am.

5 Q. Is that A-b-u, D-u-j-a-n-a-h and then the email address is
6 @yahoo.com?

7 A. Yes, it was.

8 Q. Is that user 118?

9 A. Yes.

01:31 10 Q. Do you know if that person had any special privileges?

11 A. No, that person had no special privileges.

12 Q. Finally, was there a user 1306, Aboo Mahmoud Al Muraabit?

13 A. Yes.

14 Q. What privileges did that person have?

15 A. That person, Al Muraabit, was an administrator of the
16 website also.

17 Q. All right. I'm going to turn to some of these exhibits
18 now.

19 MR. CHAKRAVARTY: Can we go to 413, please.

01:32 20 Q. Mr. Boonyasait, can you -- I think actually this may have
21 been shown to the jury before. Can you just read what that
22 says?

23 A. "Shaykh Al-Albani on the Obligation of Jihad. {At-Tibyan
24 Publications}."

25 Q. Is that -- when was this posted?

1 A. This was posted on May 23, 2005.

2 Q. And by whom?

3 A. Abu Sabaayaa.

4 Q. Can you read that first sentence -- or the first and
5 second sentence?

6 A. Okay. "The other: Fardh Kifayah (a communal obligation),
7 if a group fulfills the obligation, then the responsibility
8 falls from everyone else. And (this type) is a struggle to
9 carry the Islamic Da'wah to the other lands until they are
01:33 10 ruled by Islam."

11 Q. Then read the last sentence.

12 A. "So, this type of Jihad is ongoing until the day of
13 resurrection more so than the first type."

14 Q. Let's go back to the first -- I should have done this to
15 begin with. Can you read this?

16 A. Sure. "The first: Fardh 'Ayn (an individual obligation),
17 and this is fighting the enemy who has attacked the lands of
18 the Muslims, such as the Jews who have occupied Palestine; so
19 every single Muslim is in a state of sin until they (the Jews)
01:33 20 are expelled from it."

21 MR. CHAKRAVARTY: Can we go to Exhibit 416, please.

22 Q. First, again, can you read the date and the person who
23 posted this message?

24 A. Yes. This message was posted on June 3, 2005, by Abu
25 Sabaayaa.

1 Q. Can you read it, please?

2 A. Sure. The title is, "39 Ways to Serve and Participate in
3 Jihad." This thread will consist of chapters from the
4 forthcoming release from at-Tibyan Publications, 39 Ways to
5 Serve and Participate in Jihad, written by the martyred Shaykh
6 'Isa Al-'Awshin who was one of the main editors of the Sawt al-
7 Jihad Magazine. Enjoy."

8 Q. And then the next beginning portion.

9 A. Okay. "Introduction: All praise is for Allah who has
01:35 10 obligated Jihad upon his servants and has promised them firm
11 establishment on earth and dominance over the people of
12 disbelief."

13 Q. I can stop you there. Does this also reflect a separate a
14 post date?

15 A. Yes.

16 Q. Again, this was by Abu Sabaayaa?

17 A. Yes, it was.

18 MR. CHAKRAVARTY: Can we go to the next page and then
19 the next page.

01:35 20 Q. Can you read this post?

21 A. Sure. This is Post No. 3, posted also on June 3, 2005, by
22 Abu Sabaayaa. "1) Having the Inner Intention for Jihad.
23 Having the inner intention to fight - the true inner intention
24 which leads to one seeking to answer the call of Jihad whenever
25 the caller calls: 'Saddle up, O, Chavalry of Allah!' and to

1 make the person promise himself that he would jump forth to
2 join the fight and go forth if he is called to go forth and if
3 his aid is sought from his brothers, in accordance with the
4 saying of the Prophet (peace be upon him): '...and if you are
5 called to go forth, then go forth'."

6 Q. That's fine.

7 MR. CHAKRAVARTY: Can we go to the next page, please,
8 and the next page.

9 Q. Can you read this portion?

01:36 10 A. Yes. This is another post by Abu Sabaayaa. "2)
11 Truthfully seeking Allah for martyrdom. Asking Allah for
12 martyrdom with truthfulness and sincerity and insistence
13 because whoever truthfully asks Allah for martyrdom is given
14 the status of the martyrs by Allah - even if he dies on his bed
15 - as is in '1 Sahih Muslim' from Anas bin Malik (may Allah be
16 pleased with him), that he said that the messenger of Allah
17 (peace be upon him) said: Whoever seeks martyrdom while he is
18 truthful in that, then he is given it even if he does not
19 achieve it, and in other narration: ... Allah gives him the
01:37 20 status of the martyrs even if he dies on his bed."

21 MR. CHAKRAVARTY: Go to the next page, please.

22 Q. Can you read No. 3?

23 A. This is Post No. 8, posted on June 7, 2005, by Abu
24 Sabaayaa. "3) Going for Jihad with one's self: ...going for
25 Jihad in the path of Allah with one's self, and not being lazy

1 and delaying from this with any excuse because to be pleased
2 with sitting behind from Jihad is to be pleased with the life
3 of this world over the hereafter. And Jihad in the path of
4 Allah with one's self is from the greatest and most virtuous of
5 ways of gaining nearness to Allah, the Exalted, and its virtue
6 is not hidden from anyone."

7 Q. A little bit later down on that same post.

8 A. "And when the word Jihad is mentioned, it refers to
9 fighting (qatal), as ibn Rushd said: ...and when the word Jihad
01:38 10 is mentioned, it means physically fighting the disbelievers
11 with the sword until they submit or give the Jizyah by their
12 hands while they are in a state of humiliation."

13 MR. CHAKRAVARTY: Next page, please.

14 Q. Continuation still of No. 3, and I ask you to read this
15 portion.

16 A. "And with Jihad, the enemy is terrorized. And with the
17 spearheads, the banner is raised. And in Jihad is the essence
18 of virtue. And none abandon it who have sound logic."

19 MR. CHAKRAVARTY: Next page, please.

01:39 20 Q. Can you read the title of this one?

21 A. Yes. The title to this post is, "4) Jihad with One's
22 Wealth."

23 Q. Again, is this posted by Abu Sabaayaa?

24 A. Yes, it was on June 8, 2005.

25 Q. So this is about five days after the initial post?

1 A. Yes.

2 MR. CHAKRAVARTY: Go to the next page, please.

3 Q. Can you read this, please?

4 A. Post No. 10, posted on June 9, 2005, by Abu Sabaayaa, "5)
5 Preparing the Fighter who is Going For Jihad. And from the
6 forms of Jihad in the path of Allah, and serving the mujahideen
7 is to prepare the fighters going out for Jihad. And the virtue
8 of this has been mentioned in a number of authentic ahaddith of
9 the Prophet (peace be upon him)."

01:40 10 Q. Can you read this line?

11 A. "Whoever prepared a fighter going out in the path of Allah
12 will have the same reward as him (the fighter) without the
13 reward of the fighter being [deceased] at all. Narrated by Ibn
14 Majah and it is authentic."

15 Q. Actually, this line up here says without the fighter being
16 "decreased."

17 A. "Decreased," yes.

18 Q. The bottom of this post, can you read that?

19 A. "From the upcoming at-Tibyan Publications, 39 Ways to
01:41 20 Serve and Participate in Jihad. Last edited by Abu Sabaayaa
21 6/13/05 at 8:30 a.m."

22 MR. CHAKRAVARTY: Can we move on to Exhibit 417,
23 please.

24 Q. Can you read that?

25 A. Post No. 1, posted on September 14, 2005, by Abu Sabaayaa.

1 "The Benefits of Jihad. By the 'Allamah of al-Qasim,
2 ash-Shaykh 'Abdir-Rahman bin Nasir as-Sadi (may Allah have
3 Mercy upon him). Translated by: at-Tibyan Publications."

4 MR. CHAKRAVARTY: Can we go to Exhibit 418, please.

5 Q. Can you read that?

6 A. Post No. 11, posted on June 10, 2005, by Abu Sabaayaa.

7 "6) Taking Care of the Family Left Behind by the Fighter ...and
8 looking after their needs and affairs, in order to complete the
9 hadith mentioned in the previous method, the saying of the
10 Prophet (peace be upon him): ...and whoever takes good care of
11 the family left behind by the fighter in the path of Allah has,
12 in fact, fought."

13 MR. CHAKRAVARTY: Next page, please.

14 Q. Can you read that?

15 A. Post No. 12, posted on June 13, 2005, by Abu Sabaayaa.

16 "7) Providing For the Families of the Martyrs ...and assisting
17 their widows and attending to their children and relatives.

18 So, O you who seek to serve the Jihad and those who have
19 performed Jihad instead of you : Provide for the families of
20 the martyrs and exert your utmost effort in doing so, as the
21 Prophet (peace be upon him) went to the household of" -- I
22 can't read the last -- the name. Should I go ahead and reread
23 the whole thing?

Q. That's all right. We'll move on.

25 MR. CHAKRAVARTY: Can we go to the next page, please.

1 Q. Can you read that?

2 A. Post No. 13, posted on June 17, 2005, by Abu Sabaayaa.

3 "8) Providing for the Families of the Injured and Imprisoned.

4 And for the methods that we can utilize in our service of the
5 Jihad and the mujahideen is to provide for the families of the
6 prisoners and injured amongst them because they are not present
7 to do so themselves and their families are in need of help so
8 they are not to be left alone. Rather, there it is obligatory
9 to provide for them and to see to their affairs, as their
01:44 10 situation is like the situation of the families of the fighters
11 and the martyrs."

12 Q. Now, I'll just highlight the date of that post. Is that
13 June 17, 2005?

14 A. Yes, it was.

15 MR. CHAKRAVARTY: Go to the next one.

16 Q. Can you read that one?

17 A. This is Post No. 14, posted on September 20, 2005.

18 Q. Let me stop you there. You said "Post No. 14." Is there
19 a number on the upper right-hand corner of this highlighted
01:45 20 screen that says "#14"?

21 A. Yes.

22 Q. What does that mean?

23 A. That is the 14th post of the thread called "39 Ways to
24 Serve and Participate in Jihad."

25 Q. Is there a date and time of this one?

1 A. Yes, September 20, 2005.

2 Q. So this is over three months after the previous post?

3 A. Yes, it was.

4 Q. Okay. We were going in numerical sequence. But now what
5 is the number of the topic of this post?

6 A. This is No. 18.

7 Q. Please read it.

8 A. "18) To hide The Secrets of the Mujahideen That the Enemy
9 Can Benefit From: So it is obligatory to conceal the secrets
01:46 10 of the mujahideen so that the enemies from the disbelievers and
11 hypocrites do not benefit from them. And it is a must that the
12 affairs of the mujahideen -- as well as preserving them
13 striving to protect them and the avoidance of putting them in
14 any danger -- be a constant concern for us in order that we
15 fulfill the meaning of the word brotherhood and that we have
16 some evidence to back up our claim of love for Jihad and the
17 mujahideen."

18 MR. CHAKRAVARTY: Next page, please.

19 Q. Can you read that, please?

01:46 20 A. Post No. 15, posted on September 21, 2005, by Abu
21 Sabaayaa. "19) Supplication (du'aa') For Them: And from the
22 methods of aiding and participating and serving, the mujahideen
23 is to supplicate for them in secret that Allah gives the
24 victory over their enemies and that he keeps their feet firm
25 and that he ruins their enemies as well as supplication for the

1 release of their prisoners for the health and healing of their
2 injured, for the acceptance and forgiveness of their martyrs,
3 for the preservation and protection of their leadership, for
4 the safety and upbringing of their sons, and for them to
5 constantly be gathered upon the word of truth."

6 MR. CHAKRAVARTY: Next page, please.

7 Q. Just read the title here.

8 A. This is: "20) The Supplication of Distress (Qunut an
9 Nawazil)."

01:47 10 Q. Again, is this a post by Abu Sabaayaa?

11 A. Yes, it was.

12 Q. What's the date of this?

13 A. This was posted on October 1, 2005.

14 MR. CHAKRAVARTY: Go to the next page, please.

15 Q. Can you read this one?

16 A. This is Post No. 18, posted on October 3, 2005, by Abu
17 Sabaayaa. "21) Following and Spreading the News of the Jihad:
18 And there is no doubt that there is a reward in following the
19 news of the mujahideen if this is done out of love and concern
01:48 20 for Jihad, where the person is happy when they (the mujahideen)
21 are happy and he is saddened when they are saddened. As for he
22 who considers it sufficient to do this, if the news is good,
23 then he is with the mujahideen, and if the news is bad, then he
24 considers it a blessing from Allah that he was not present to
25 witness the events firsthand - then this person is as the

1 Shaykh Abu Umar Muhammad as-Sayf (may Allah preserve him) said:
2 And verily, to avoid assisting and participating in Jihad, and
3 considering it sufficient to follow the news of the mujahideen
4 from afar by way of various media outlets, audio, video and
5 written, then this is from the characteristics of the
6 hypocrites whom Allah, the Exalted, says regarding them."

7 Q. And then the next one?

8 A. Post No. 18, posted on --

9 Q. Strike that, I'm sorry.

01:49 10 MR. CHAKRAVARTY: Next page, please. Thank you.

11 A. Post No. 19, posted on October 5, 2005, by Abu Sabaayaa.
12 "22) Participating in Spreading What They Release of Books and
13 Publications -- I'm sorry. Let me start over. "22)
14 Participating in Spreading What They Release of Books and
15 Publications ...and this is related to the previous method of
16 spreading their news and distributing it between the Muslims.
17 So it is necessary for you to think of spreading everything
18 related to the Jihad and that which incites and calls to it in
19 order to aid its people, and to make use of the various methods
01:50 20 of doing so. For example, collecting heroic accounts involving
21 sacrifice and bravery, Xerox copying them and distributing them
22 amongst the people and on the internet. Also, collecting the
23 letters of the prisoners in Guantanamo and taking the best of
24 them and spreading them between the people so that they may
25 increase in their sympathy for them. Likewise, everyone should

1 try to prepare some media project regarding the mujahideen and
2 their affairs. And here I will mention a" --

3 MR. CHAKRAVARTY: Next page, please.

4 Q. Continuing.

5 A. -- "situation of one of the virtuous sisters who took it
6 upon herself to collect the latest news from Chechnya. She
7 collected the latest interviews with Shamil Basayev and
8 Khattab, and she collected some poems and stories and
9 statements. Then she put them all into a single volume and
01:51 10 distributed them in between the people.

11 "And if you are incapable of releasing something
12 yourself then it is upon you to spread any thing related to the
13 mujahideen, of publication, books, etc. in order to serve the
14 Jihad and the mujahideen.

15 "From the upcoming at At-Tibyan Publication, 39 Ways
16 to participate and serve Jihad."

17 MR. CHAKRAVARTY: Next page, please. That appears to
18 be the end of this thread. I'm sorry. Could you go to the
19 next page, two pages previous.

01:52 20 Q. Can you just read the title of this one?

21 A. "23) Issuing the Fatawa That Aide Them."

22 Q. And the date of this post?

23 A. October 9, 2005.

24 MR. CHAKRAVARTY: Can we go to Exhibit 421, please.

25 Q. Just to show, does this post start with the No. 21?

1 A. Yes.

2 Q. So does that suggest that this is the 21st post in a
3 thread?

4 A. Of the thread, yes.

5 Q. The Post No. 21 is Aboo Khubayb al-Muwahhid?

6 A. Correct.

7 Q. That's one of the names that you had mentioned earlier?

8 A. Correct.

9 Q. Then you go down to the next post. Can you read this
01:53 10 post?

11 A. This is Post No. 22, posted on May 4, 2005, by Abu
12 Sabaayaa. "On another note, brothers, one thing needs to be
13 considered here. The Americans are claiming to have captured
14 the No. 3 man in al Qa'ida (which I thought was Sulaymaan Abu
15 Ghayth anyway. However, they do not even know his real name.

16 "How do we know it is even really Abu Faraj? How do
17 you capture somebody and claim him to be the operations chief
18 of the most feared terrorist organization in the world and not
19 even know his name?

01:53 20 "Allah knows best. Just think about that and don't be
21 too quick to gulp down the cups of defeat that are being fed to
22 you by the Saleebiydeen."

23 MR. CHAKRAVARTY: Can we if to Exhibit 422, please.

24 Q. Again, does this post begin with Post No. 1 and a question
25 by somebody named Muhsin?

1 A. Yes.

2 Q. So the question, can you read that?

3 A. Post by Muhsin; title, "27 ways of doing... Salaam, what
4 happened to the translations that was being done of the work
5 called 27 Ways of Doing Jihad? We were up to 16, I think?

6 "I was looking forward to its completion, but the
7 forum closed. Has the full translation been done?

8 "Abu Sabaayaa?

9 "Shukran."

01:54 10 Q. And can you read the response?

11 A. Post No. 2, posted on September 12, 2005, by Abu Sabaayaa.
12 "Wa 'alaykum assalaam wa Rahmatullaah: You mean the 39 Ways to
13 Serve and Participate? I am still continuing work on it,
14 inshaa'-Allaah. It is just a little tougher now with school
15 and all, but I will get future chapters out to you guys by the
16 permission of the Most High."

17 Q. What was the date of this post?

18 A. This was posted on September 12, 2005.

19 Q. In fact, some of the posts that we were just reading a
01:55 20 little while earlier were from October of 2005, is that right?

21 A. Yes, it was.

22 MR. CHAKRAVARTY: Can we go to Exhibit 425, please.

23 Q. Again, just going to the subject matter of this thread,
24 can you read that?

25 A. Sure. This is the subject of the thread is called "39

1 Ways to Serve and Participate in Jihad."

2 Q. Can you read that?

3 A. Post No. 23, posted on December 3, 2005, by Abu Sabaayaa.

4 "Wa 'alaykum as-Salam: We have more stuff in the works for you
5 guys. So it's taking a little while to finish but it shall be
6 completed soon, bi 'idnillah. Abu Sabaayaa."

7 MR. CHAKRAVARTY: Can we go to Exhibit 426, please.

8 Q. Now, Mr. Boonyasait, is this an example of a private
9 message on Tibyan Publications?

01:56 10 A. Yes, it is.

11 Q. What can show -- what shows that this is a private
12 message?

13 A. Most notably, the top. It says, "Private message, Re:
14 Urgent request."

15 Q. Is this a private message from or to Abu Sabaayaa?

16 A. Yes, it is.

17 Q. In fact, in the upper right-hand corner -- let me
18 highlight this. Does this -- what does this indicate, this
19 data indicate?

01:57 20 A. This says that Abu Sabaayaa last visited on October 11,
21 2005, at 10:30 p.m. and the number of private messages
22 associated with this account.

23 Q. From the user experience perspective, if one were checking
24 their private messages, they would get to this screen?

25 A. Yes, they would.

1 Q. Does this message reflect somebody sending a message to or
2 from Abu Sabaayaa?

3 A. This is a message sent to Abu Sabaayaa in response to his
4 original message.

5 Q. Okay. Who is the user that sent the message to him?

6 A. Abu Silah Al-Hindi.

7 Q. What date was this message sent?

8 A. September 19, 2005.

9 Q. What's the title of this message?

01:58 10 A. "Urgent request."

11 Q. Underneath that, there's a box that appears with some text
12 within it. What does that mean?

13 A. That is the original message that was written by Abu
14 Sabaayaa.

15 Q. So is this a reply to that message?

16 A. Yes, it is.

17 Q. Does it, in fact, say, "Re: Urgent request"?

18 A. Yes, so in response to.

19 Q. Can you read the original message first?

01:58 20 A. Okay. "Originally posted by Abu Sabaayaa. Wa 'alaykum
21 assalaam, dear brother: Inshaa'-Allaah, you can send me the
22 message at the email address of ibnul_khattab82@yahoo.com but
23 still exercise relative safety when sending anything. Abu
24 Sabaayaa."

25 Q. There were some exhibits that we haven't gone through and

1 read, but do they follow the same format?

2 A. Yes, they do.

3 MR. CHAKRAVARTY: One more. 427, please.

4 MR. CARNEY: Your Honor, may we approach, please?

5 THE COURT: Okay.

6 (SIDEBAR CONFERENCE AS FOLLOWS:

7 MR. CARNEY: Your Honor, when the government initially
8 offered this batch of exhibits, I didn't think I had an
9 objection to any of them. But I do have an objection to this
02:00 10 one, the last one. So I'm moving to strike it. What it is is
11 an email message sent to my client on this forum asking him --
12 or requesting translation -- or, rather, this is basically
13 suggesting that a translation be considered to be done by
14 Tarek. And he didn't respond to it, and he never did the
15 translation.

16 Therefore, it is simply a purely hearsay document
17 expressing someone else's sentiments, has no impact on the
18 defendant or his state of mind. It can't be considered an
19 admission, and I move to exclude it.

02:01 20 MR. CHAKRAVARTY: We have chats later that demonstrate
21 that they talk about the subject matter of this request as well
22 as other conversations with the person and the people who are
23 sending him translations -- sending him translation requests to
24 suggest that they're working together to conduct these
25 translations.

1 This is one that, as I mentioned in my opening, he was
2 asked by the people -- the cloud people to translate a message
3 of Doctor Ayman Al Zawahiri to the people of Pakistan.

4 MR. CARNEY: The critical point is he never translated
5 it, and it's grossly unfair to allow evidence that someone is
6 asked to do something and the person never does it. It's not
7 the equivalent of his not doing it. And so in that context,
8 it's pure hearsay. It's more prejudicial than probative.

9 THE COURT: I understand the point. I don't know how
02:02 10 it's affected by that other evidence, I guess, that you're
11 talking about.

12 MR. CHAKRAVARTY: Part of the request is by a
13 coconspirator. The rest of the chats that will come in will
14 show that they actually talk about the -- different ideas for
15 how to do this translation in terms of formatting.

16 THE COURT: Let me just -- you say "co-conspirator."
17 Who's the author of the note?

18 MR. CHAKRAVARTY: Mahmoud Al Muraabit, who the witness
19 testified was --

02:02 20 THE COURT: Was part of the translation?

21 MR. CHAKRAVARTY: Part of the translation.

22 MS. BASSIL: If I can add to this, the later instant
23 messages show that he was asked to edit a translation of a
24 video. This is the video, all right? And he did not do it.
25 They sent him the English translations so he can edit it, and

1 he did not do it.

2 THE COURT: Let me ask this: Will there be evidence
3 that will apprise the jury of that fact, that he did not do
4 this?

5 MR. CHAKRAVARTY: I don't know that he didn't do it.
6 I know that he at the very least had discussions with the
7 person who was asking him about how to format it.

8 MS. BASSIL: Let me clarify that. The discussion is
9 two lines, in which the person says, Do you think we can add
02:03 10 anything? And he says, How about putting some mujahideen in
11 the front, something like that. That's it. It's nothing about
12 formatting.

13 THE COURT: I don't think the question is necessarily
14 that he completed any particular task. It appears to be the
15 government is offering this as proof of work of the conspiracy.
16 Even if some work is left undone, I suppose it's still -- so
17 the objection is overruled.

18 MR. CARNEY: Your Honor, the prejudice of this so far
19 outweighs its probative value.

02:04 20 THE COURT: I don't know. He's says this is probative
21 value. I think we'll leave it for the jury.

22 MR. CHAKRAVARTY: It also goes to the defendant's
23 state of mind, the fact that he knows that he's being asked
24 by --

25 THE COURT: Well, I don't know about that.

1 MR. CARNEY: May I just be heard for a moment?

2 THE COURT: If it's conversations amongst
3 conspirators, or people the jury could find were conspirators,
4 about things they might do even if they left them undone. They
5 may talk about hitting one bank and they never hit it. There
6 may be other things they do. I think it's relevant.

7 MR. CARNEY: Your Honor, may I be heard briefly
8 further? The prejudice of this so far outweighs the probative
9 value. If the government is saying they're trying to show that
02:04 10 he's working on Tibyan, he's presenting documents, they've
11 shown that. But to allow one where he didn't do it -- and this
12 is an extraordinarily inflammatory video. He didn't do it. He
13 didn't translate it. He didn't edit it. And so the probative
14 value of that is minimal. If someone is asked, listen, would
15 you bring 100 kilos of cocaine in, and the person says no, the
16 probative value of his being asked is so minimal as opposed to
17 the prejudice.

18 THE COURT: I understand the objection. Overruled.

19 Let me just ask, timewise --

02:05 20 MR. CHAKRAVARTY: That's the last one.

21 THE COURT: We'll do this and then we'll take a break,
22 and then we'll do cross.

23 MR. CARNEY: Your Honor, while we're here, I would ask
24 for a full half-hour recess. The reason is that, for this
25 witness, I found out this morning that they were going to be

1 introducing these documents through this witness.

2 THE COURT: All right. I'll give you a little more
3 time.

4 . . . END OF SIDEBAR CONFERENCE.)

5 MR. CHAKRAVARTY: 427, please.

6 Q. Mr. Boonyasait, is this the user information of the person
7 who would be receiving a private message?

8 A. Yes.

9 Q. And this is the sender information?

02:06 10 A. Yes, it is.

11 Q. What's the -- can you state the name and the date that
12 this was sent?

13 A. Yes. This message was sent on October 10, 2005, by Aboo
14 Mahmoud Al Muraabit.

15 Q. This is one of the individuals you identified earlier in
16 your testimony?

17 A. Yes, I did.

18 Q. Was he specifically part of any group?

19 A. Yes. Aboo Mahmoud Al Muraabit is an administrator.

02:06 20 Q. Can you read this, please?

21 A. Okay. I can't read the Arabic part, so I'll skip to the
22 English. "The ikhwaan from the cloud people are asking us if
23 we can translate this msg from the al doctoor regarding
24 curryland. The vid." A link to internet
25 alsahaab/note.to.pakistan.mpg and the transcript link to

1 anasaamet.org/alsahaab/Note.doc, "and this message from
2 khubayb." Then it's a copy of what appears to be chats:
3 "rak@gta: as-Salaam 'Alaykum@gta: akhee, here is in Pursuit of
4 Allaah's Pleasure, get Abul-Fadl or Abu Sabaayaa to edit it,
5 inshaa'-Allaah," and the link to megaupload website, "adrak@gta:
6 Also I'm giving you in a bit, Purification of the Soul by ibn
7 Rajab, Al-Firdaws pubs," and response by k@gta:
8 "inshaa'-Allaah," and then the link to megaupload website,
9 "Purification of the Soul, give this to Abu Sabaayaa for
02:08 10 footnotes," and then a response by k@gta: "Inshaa'-Allaah."

11 Q. Mr. Boonyasait, you worked -- do you still work in this
12 area of internet -- use of the internet by terrorists?

13 A. Yes, I do.

14 Q. Are you familiar with the Alashaab?

15 A. Yes, yes, I am. Alashaab is -- well, one iteration of
16 Alashaab is an al Qa'ida affiliated media publishing facility.

17 Q. What kind of publishing?

18 A. It pushes out media, al Qa'ida related media, such as
19 videos and publications.

02:09 20 MR. CHAKRAVARTY: That's all I have, your Honor.

21 THE COURT: Okay. We'll take the morning recess at
22 this point. Jurors, I remind you again of the caution not to
23 discuss any of the evidence amongst yourselves during any of
24 the recesses.

25 (Recess taken at 11:05 a.m.)

1 (After recess:)

THE CLERK: All rise for the Court and the jury.

3 (The Court and jury enter the courtroom at 11:39 a.m.)

4 THE CLERK: Please be seated.

5 MR. CARNEY: Thank you, your Honor.

6 | CROSS-EXAMINATION

7 BY MR. CARNEY:

8 Q. Mr. Boonyasait, how do you pronounce it correctly?

9 A. That's correct.

02:44 10 Q. Good morning.

11 A. Good morning.

12 Q. You testified earlier this morning about the Tibyan
13 website, correct?

14 A. Yes, I did.

15 Q. And you described it as being a web forum. Is that
16 correct?

17 A. Yes. It's a website consisting of web forums.

18 Q. And a web forum, in essence, is a discussion group, isn't
19 it?

02:44 20 A. Yes. It consists of discussion topics.

21 Q. It would be helpful, Mr. Boonyasait, if I asked you a
22 question, if you could answer yes or no -- if you did so. If
23 you want me to re-ask the question, I'll do that, if you don't
24 understand it or you can't answer it. We'll move more quickly.
25 Is that okay?

1 A. Yes.

2 Q. All right. So as a web forum, it's basically a discussion
3 group, isn't it?

4 A. Yes.

5 Q. And you described it during your testimony as being
6 content created by the users group. Is that right?

7 A. Yes, I did.

8 Q. There are other internet sites where the person running
9 the internet site dictates everything that is said on that
02:45 10 site, correct?

11 A. There are.

12 Q. It may be possible in one section of that site for people
13 to add comments, but even that is monitored and controlled by
14 the runner or the operator of the website, correct?

15 A. Yes.

16 Q. In this instance, this web forum or discussion group
17 required that if you wanted to participate in it, you had to
18 apply to do so, correct?

19 A. Yes.

02:45 20 Q. And if you were approved to participate you were given, or
21 you selected, a password for you to gain access to the
22 discussion group. Is that correct?

23 A. No.

24 Q. Were you assigned a password?

25 A. No. You selected the password at the time when you

1 registered.

2 Q. And by using that password, you could get access to the
3 forum. Is that correct?

4 A. Yes.

5 Q. Now, this particular discussion group focused on issues
6 that were of interest and concern primarily to Muslims. Is
7 that right?

8 A. Yes.

9 Q. And one of the great concerns that was discussed on that
02:46 10 web forum was how Muslims should react to armies invading, in
11 essence, Muslim countries, correct? Was that a major issue of
12 discussion?

13 A. Owing to the volume of the threads I could not say,
14 because I only read specific threads and posted messages.

15 Q. Well, based on the posted messages and threads you did
16 read, a major subject was how to deal with armies in Muslim
17 countries. Isn't that true?

18 A. There were a few.

19 Q. There was also a discussion of how to react to a country
02:47 20 that was operating, in the view of some, in an unIslamic
21 manner. Isn't that true?

22 A. Yes.

23 Q. For example, one of those countries was Saudi Arabia,
24 wasn't it?

25 A. No, I do not remember reading anything relating to Saudi

1 Arabia.

2 Q. Do you recall that there was a lot of criticism of Saudi
3 Arabia because of how the government operated and how it
4 allowed military bases of other countries to be placed in that
5 country?

6 A. No, I do not remember.

7 Q. Do you remember in any of the postings any discussions of
8 suicide bombings that had occurred in Saudi Arabia?

9 A. I remember reading postings of suicide bombings, but not
02:48 10 in Saudi Arabia.

11 Q. Where was the suicide bombing?

12 A. It was just in general.

13 MR. CARNEY: May I have a moment, your Honor?

14 (Pause.)

15 BY MR. CARNEY:

16 Q. Geography question: Riyadh is the capital of Saudi
17 Arabia, isn't it?

18 A. Yes.

19 Q. Riyadh is discussed in these postings, isn't it?

02:48 20 A. I do not recall.

21 Q. I direct you to Exhibit 410.

22 MR. CARNEY: For the witness only, please.

23 Q. Would you please read this to yourself?

24 A. Could you magnify it?

25 Q. Does that refresh your memory that this posting was

1 concerned with the impact of suicide bombings in Saudi Arabia?

2 A. Yes.

3 Q. In particular, those bombings were in the capital city,
4 weren't they?

5 A. Yes.

6 MR. CARNEY: And if I may have one other moment, your
7 Honor, please?

8 (Pause.)

9 Q. Later on Tarek Mehanna, in Exhibit 419 --

02:51 10 MR. CARNEY: If you can put that up for the witness
11 himself.

12 Q. -- is also talking about the bombings in Riyadh. Isn't
13 that true?

14 A. Yes.

15 Q. So one of the discussions on the forum concerned the
16 proper response of Muslims to the actions of the Saudi Arabian
17 government, correct?

18 A. Yes.

19 Q. Other postings were dealing with the invasion of Iraq.
02:51 20 Isn't that right?

21 A. It appears so.

22 Q. Now, some of the statements made in this discussion group
23 focused on what would be the appropriate response of a Muslim
24 to these actions, correct?

25 A. Yes.

1 Q. But there were also discussions about what would be the
2 obligation of a Muslim to these events in Saudi Arabia and in
3 Iraq. Isn't that true?

4 A. Yes.

5 Q. Now, would you agree that there is a distinction between
6 what a response should be and what an obligation should be?

7 A. In certain context, yes.

8 Q. Well, a response might be what is something appropriate to
9 be done, whereas an obligation would be what is something that
02:52 10 has to be done or must be done. Would you agree with that
11 distinction, sir?

12 A. Yes.

13 Q. Now, the Muslim faith is based initially on the Qur'an, is
14 it not?

15 A. Yes, it is.

16 Q. And the Qur'an is the equivalent of the Torah in Judaism
17 or the Bible in Christianity. Isn't that fair to say?

18 A. Yes, it is.

19 Q. A very, very important book that people of their
02:53 20 respective religions turn to to answer questions, correct?

21 MR. CHAKRAVARTY: Objection, your Honor.

22 THE COURT: Sustained.

23 BY MR. CARNEY:

24 Q. When people on this discussion group are discussing what
25 is the appropriate response or what is the appropriate

1 obligation of a Muslim to certain current events, there's often
2 a reference made to what the Qur'an says. Isn't that true?

3 A. Yes.

4 Q. There are also references to what are called "Hadith."
5 And did you see that?

6 A. Yes.

7 Q. "Hadith" are documents that basically reflect the views
8 and teachings of the Muslim prophet Mohammad. Isn't that true?

9 MR. CHAKRAVARTY: Objection, your Honor.

02:54 10 THE COURT: You may answer if you know.

11 THE WITNESS: Yes.

12 BY MR. CARNEY:

13 Q. And what these discussions often focus on is how to apply
14 an ancient document like the Qur'an to the modern
15 practicalities faced by modern-day Muslims, correct?

16 A. For the majority, yes.

17 Q. Now, as with most web-based forums, there are a variety of
18 viewpoints expressed. Isn't that right?

19 A. For forums you usually have like-minded individuals, so a
02:55 20 variety is very biased.

21 Q. Well, if someone goes on a web forum, for example, to
22 discuss United States foreign policy, it's fair to say that all
23 of those people have an interest in American foreign policy,
24 right?

25 A. Yes.

1 Q. But within that discussion group, people would have
2 differences on what direction that policy should take, correct?

3 A. Sometimes.

4 Q. A good discussion group, in fact, reflects a variety of
5 viewpoints that are being expressed as opposed to everybody
6 saying the exact same thing. Isn't that true?

7 MR. CHAKRAVARTY: Objection, your Honor.

8 THE COURT: Sustained.

9 BY MR. CARNEY:

02:55 10 Q. Are you -- have you made the study of websites part of
11 your employment?

12 A. Study of websites?

13 Q. Yes.

14 A. Partially.

15 Q. So you're familiar with discussion groups?

16 A. Discussion groups are different than web forums.

17 Q. All right. In a web forum, that's an ability for people
18 to post their views, isn't it?

19 A. Correct.

02:56 20 Q. Now, on the Tibyan website, some views that were expressed
21 would be safe to characterize as extreme views. Wouldn't that
22 be true?

23 A. It would be fair to --

24 Q. And the most extreme views expressed on Tibyan would be
25 views that were held by the terrorist organization al Qaeda.

1 Isn't that fair to say?

2 A. Again, because I -- there are so many posts, I could not
3 say -- I could not characterize that.

4 Q. Would you agree that the views supported by al Qa'ida are
5 the most extreme that you saw on that web forum?

6 A. Most likely, yes.

7 Q. And there were other views that disagreed with the
8 interpretation or the statements that agree with al Qa'ida.

9 Isn't that correct?

02:57 10 A. Yes.

11 Q. Indeed, there were some views expressed on Tibyan that
12 literally rejected views held by the most extreme people on
13 that web forum. Isn't that true?

14 A. I do not remember seeing anybody overtly saying such
15 things.

16 Q. When did you last look at these documents?

17 A. Recently. Maybe a couple of days ago.

18 Q. And you didn't recall anyone providing pushback to the
19 extreme views?

02:58 20 A. I did, yes.

21 Q. Well, a moment ago you said you didn't see them, but now
22 you remember there were views expressed that disagreed with the
23 most extreme statements on Tibyan?

24 A. Pushbacks, but not complete rejection.

25 Q. Pushbacks, but not complete rejection?

1 A. Yes, sir. So it's a semi-disagreement is what I would
2 say.

3 Q. Is a disagreement --

4 A. That is my interpretation.

5 Q. -- a disagreement?

6 A. Yes.

7 Q. And if someone says, "I believe that X is appropriate" and
8 someone else, "Well, I don't agree; in fact, I think it's
9 inappropriate," you would consider that a disagreement,
02:58 10 wouldn't you?

11 A. Yes, that is a straight disagreement.

12 Q. And there were those disagreements on this forum, correct?

13 A. Yes, there are some.

14 Q. And we're going to get to some that were expressed by this
15 man, Tarek Mehanna, aren't we?

16 A. Maybe. I would assume so, yes.

17 Q. Well, did you read these documents?

18 A. Yes, I did.

19 Q. Okay. Did you see Tarek's postings indicating his
02:59 20 personal views?

21 A. I saw one or two that were rejected.

22 Q. All right. Now, his role on Tibyan was as a moderator.

23 Is that right?

24 A. Yes.

25 Q. And a moderator -- a good moderator -- is someone who

1 ensures that a number of different viewpoints are reflected in
2 a discussion or on a web forum. Isn't that correct?

3 A. Yes.

4 Q. That means that a good web forum or discussion site has
5 extreme views and non-extreme views, in your experience, so
6 that the reader can be informed about both?

7 MR. CHAKRAVARTY: Objection, your Honor.

8 THE COURT: Sustained.

9 BY MR. CARNEY:

03:00 10 Q. In your experience and expertise looking at web forums,
11 wouldn't you agree that when there are extreme views and when
12 there are moderate views, the readers or visitors to that web
13 forum will be exposed to these different views?

14 A. Yes.

15 Q. And that way, the people who go to the website can make up
16 their own mind. Isn't that right?

17 A. Yes.

18 Q. But Tarek Mehanna posted two types of statements on
19 Tibyan. The first was statements that were written by other
03:00 20 people, and the second was statements written by Tarek himself
21 expressing his own views. Isn't that correct?

22 A. Yes.

23 Q. In some instances the document that Tarek would post as
24 moderator may have been written initially in English. Isn't
25 that true?

1 A. Yes.

2 Q. In other instances, in order for an English-speaking
3 viewer visiting the website to read a document, it would be
4 necessary to translate it from Arabic to English if the person
5 only spoke English. Isn't that fair to say?

6 A. Yes.

7 Q. And so these statements by other people posted by Tarek
8 were not his words but their words, right?

9 A. Yes.

03:01 10 Q. Now, are you familiar with the fact that one of the
11 central principles of the Islam religion is that Muslims have
12 an obligation to expel invaders from Muslim lands?

13 A. Yes.

14 Q. And that comes from the Qur'an, correct?

15 A. Correct.

16 Q. Now, a phrase used to describe this in the Islamic
17 religion is "defensive jihad." Isn't that correct?

18 MR. CHAKRAVARTY: Objection, your Honor.

19 THE COURT: What's the objection?

03:02 20 MR. CHAKRAVARTY: The witness's competency.

21 THE COURT: Sustained.

22 BY MR. CARNEY:

23 Q. Are you familiar from reading these websites about the
24 Islamic religion, the Muslim religion?

25 A. I am somewhat familiar.

1 Q. And based on that familiarity, are you familiar with the
2 phrase "defensive jihad"?

3 A. Yes.

4 Q. And the theory of defensive jihad is that Muslims have an
5 obligation to expel invaders who have invaded Muslim lands.
6 Isn't that a fair statement?

7 A. Yes.

8 Q. An example of this would be when the Soviet Union invaded
9 Afghanistan, which is a Muslim country, and defensive jihad was
03:03 10 Muslims acting to expel the Soviet Union from Afghanistan.

11 Isn't that correct?

12 MR. CHAKRAVARTY: Objection.

13 THE COURT: You may answer it.

14 THE WITNESS: Yes.

15 BY MR. CARNEY:

16 Q. That's an example of defensive jihad, correct?

17 A. Yes, based on the interpretation of the Qur'an.

18 Q. And you are familiar with the fact that the Muslims in
19 Afghanistan successfully ejected the Soviet Union from
03:03 20 Afghanistan, correct?

21 A. With the aid of others, yes.

22 Q. And perhaps the most important aid the Muslims received in
23 Afghanistan was from the United States, right?

24 A. Perhaps.

25 Q. Did you ever see the movie "Charlie Wilson's War"?

1 A. Yes.

2 MR. CHAKRAVARTY: Objection, your Honor.

3 THE COURT: That's enough of that, I think. Go ahead.

4 BY MR. CARNEY:

5 Q. The bottom line is, the United States played a very
6 supportive role of the Muslims in Afghanistan ridding itself of
7 the Soviet Union which had invaded that country, correct?

8 A. Yes.

9 Q. Now, this forum, Tibyan, to the best of your knowledge was
03:04 10 accessible to every person in the United States who had a
11 password to get on that site and could read what's on it,
12 correct?

13 A. It was accessible if the member was allowed in to the
14 website.

15 Q. So if a person applied to go in and had a password, he or
16 she would be able to look at this internet forum anywhere in
17 the United States where he or she had internet access, correct?

18 A. Basically, yes, unless the computer was -- blocked off a
19 specific area of the internet access.

03:05 20 Q. All right. So if a parent said that a child is not to be
21 able to access any particular websites, the parent can block
22 access to those websites?

23 A. Yes.

24 Q. Is that what you mean?

25 A. Yes.

1 Q. But for an adult who has no restriction on his or her
2 computer and who has been authorized to go on this site, he or
3 she can access this site as long as he has internet access
4 anywhere in the United States, right?

5 A. Yes.

6 Q. He can do it at his office; she can do it at her home.
7 There's no blocking people reading this, is there?

8 A. Yes, with an account.

9 Q. Pardon me?

03:06 10 A. With an account, yes.

11 Q. Okay. With an account there's nothing to prevent
12 Americans from reading this, right?

13 A. Yes.

14 Q. Now, we mentioned -- we talked about the fact that
15 Tarek Mehanna put certain statements on Tibyan that had been
16 written by others, correct?

17 A. Yes.

18 Q. One of the statements written by someone else is called
19 "39 Ways." Isn't that right?

03:06 20 A. Yes.

21 Q. What's the full title of the document?

22 A. "39 Ways to Participate in Jihad."

23 Q. And do you know who wrote it?

24 A. I do not remember the name of the sheikh.

25 Q. Do you remember where the person was from?

1 A. No, I do not.

2 Q. Do you know when it was written?

3 A. No, I do not.

4 Q. But it's clear that it was not written by Tarek Mehanna,
5 right?

6 A. No.

7 Q. And that this document was a document freely available on
8 the internet on numerous websites. Isn't that correct?

9 A. I do not know.

03:07 10 Q. Well, did you try to find out if you can access the
11 publication "39 Ways" on any other place but Tibyan?

12 A. No, sir. That was not within the purview of my work.

13 Q. So when you were assigned the task of getting these posts
14 and being prepared to testify here, you had a very, very narrow
15 focus based on what the prosecutors only wanted you to do,
16 right?

17 A. No, I never sought that information out on the internet.

18 Q. Well, you said it was because they didn't ask you to
19 search that out.

03:08 20 A. I did not say that.

21 Q. It was not part of your task?

22 A. No. Typically -- when I review websites, I only review
23 the content of the website.

24 Q. So you don't know the history of "39 Ways," do you?

25 A. I do not.

1 Q. And you've told us you don't know when it was written?

2 A. No.

3 Q. Or by whom it was written?

4 A. I don't know --

5 Q. Or how prevalent it was available on the internet --

6 A. No.

7 Q. -- correct?

8 A. Yes.

9 Q. Do you know that the "39 Ways" is directly based upon
03:08 10 passages from the Qur'an and Hadith?

11 A. I do not.

12 Q. You read various segments of the "39 Ways" to the jurors
13 earlier this morning, right?

14 A. Yes.

15 Q. And you didn't know that some of these passages were
16 directly from the Qur'an, did you?

17 A. I'm not familiar with the Qur'an enough.

18 Q. In addition, you told us about your knowledge of Hadith
19 earlier, and specifically, that Hadith are the teachings of the
03:09 20 prophet Mohammad, right?

21 A. Yes, you phrased it that...

22 Q. And when you were reading the "39 Ways," some of the
23 document was in bold. Did you see that?

24 A. Yes, sir.

25 Q. Did you know that if it were in bold, that that portion of

1 the "39 Ways" was a direct quote from a Hadith representing the
2 views of the prophet Mohammad? Did you know that?

3 A. I knew that -- yes, because some of the quotes said that
4 it was from the prophet Mohammad.

5 Q. And you know the prophet Mohammad is the most important
6 person in Islam?

7 A. Yes.

8 Q. And so within the "39 Ways" are quotes from the most
9 important person in Islam, right?

03:10 10 A. Correct.

11 Q. And this is what Tarek translated from Arabic to English
12 so that English-speaking visitors to the site could read these
13 words. Is that right?

14 MR. CHAKRAVARTY: Objection, your Honor.

15 THE COURT: Sustained to that question as formed.

16 BY MR. CARNEY:

17 Q. So by Tarek translating these statements from Arabic to
18 English in the "39 Ways," an English-speaking-only viewer to
19 the website, to the web forum, would be able to read the words
03:11 20 of the prophet Mohammad, right?

21 A. Yes.

22 Q. Is that right?

23 A. Yes.

24 Q. I would like to go over with you some of the documents
25 that were introduced by the prosecutor.

1 MR. CARNEY: Could we begin with 410, please? For
2 only me and the witness and, of course, the judge and the
3 prosecutor right now until I can get the hang of things, your
4 Honor?

5 Are you able to, please, expand that slightly, Paul,
6 Mr. Bruemmer? I would like to get all the way to the left,
7 please.

8 May I have a moment, your Honor, please?

9 (Pause.)

03:13 10 THE COURT: Let me ask, do you have a paper copy? You
11 could use the document camera and get the same result.

12 MR. CARNEY: Not really, your Honor, because mine has
13 notes written on it, and I'm looking for a clean copy that was
14 shown to the jurors.

15 THE COURT: I think we'll have to take a technical
16 break. We've called a technical person from our IT. We'll try
17 to solve this.

18 We'll take a short recess.

19 THE CLERK: All rise for the Court and the jury. The
03:14 20 Court will take a short recess.

21 (The Court and jury exit the courtroom and there is a
22 recess in the proceedings at 12:11 p.m.)

23 THE CLERK: All rise for the Court and the jury.

24 (The Court and jury enter the courtroom at 12:25 p.m.)

25 THE CLERK: Please be seated.

1 BY MR. CARNEY:

2 Q. Mr. Boonyasait.

3 A. Yes?

4 Q. Please tell me again how to pronounce it.

5 A. Boonyasait.

6 Q. Boonyasait?

7 A. Correct.

8 Q. Thank you, sir.

9 A. You're welcome.

03:30 10 MR. CARNEY: I would ask that Exhibit 410 be placed on
11 the screen for everyone.

12 THE COURT: For everyone? Including the jury?

13 MR. CARNEY: Yes, your Honor.

14 THE COURT: Because before you had said not the jury.
15 That's why I just wanted to be clear. Okay.

16 BY MR. CARNEY:

17 Q. The first part of this post was not written by
18 Tarek Mehanna. Isn't that correct? Do you see the name of the
19 person who posted it? It's in the top left. Do you need it to
03:31 20 be expanded a little?

21 A. Yes, please.

22 Q. I'm sorry. This indicates that the post initially was
23 made by Abu Hudhayfa. Is that correct?

24 A. Correct. Yes, sir.

25 Q. And in this post he is talking about the explosions and

1 bombings that had occurred in Riyadh. Isn't that correct?

2 A. Yes.

3 Q. And basically, he is critical in this post of people who
4 approved those bombings, and he ridicules a particular person,
5 Sheikh Abdul Muhsin Al-Abbad, as just being either an
6 establishment sheikh or a Saudi-government-loving old sheikh,
7 correct?

8 A. Yes.

9 Q. Now, Tarek responds to that later in the -- in the thread
03:32 10 in the very next post, doesn't he? Oh, you don't know that.

11 MR. CARNEY: Could we do full screen, please?

12 Q. I'd like to direct your attention to the second post in
13 this thread, Number 2. Do you see the Number 2 in the top
14 right?

15 A. Yes, I do.

16 Q. And do you see that this is posted by Abu Sabaayaa, who is
17 Tarek Mehanna, correct?

18 A. Yes.

19 Q. And this begins on one page and will carry over to the
03:33 20 next.

21 A. Yes.

22 Q. Can you read what the --

23 MR. CARNEY: It's easier sitting down at a desk, I can
24 tell you. Okay. Can you just expand that?

25 THE WITNESS: I can read it, if you need.

1 THE COURT: Because it's a split screen.

2 MR. CARNEY: I see, your Honor. Thank you.

3 BY MR. CARNEY:

4 Q. Tell me if I'm reading this correctly. And this is the
5 posting of Tarek Mehanna in response to someone who had been
6 criticizing the bombings in Riyadh. "Just because he doesn't
7 agree with the bombings doesn't mean he is a government scholar
8 or a stooge of the government."

9 MR. CARNEY: Why don't we just go to the second page?

03:35 10 And if you can highlight the -- or expand this part.

11 Q. So Mr. Mehanna, in response to the criticism of the sheikh
12 who was critical of the suicide bombing, said, "Just because he
13 doesn't agree with the bombings doesn't mean he is a government
14 scholar or a stooge of the government. As far as I know, there
15 was no revelation from above the heavens confirming the
16 bombings to be right or wrong. It's okay to not agree with the
17 bombings; we're not like the Madaakhilah who declare other
18 people to be misguided simply because they have different
19 opinions on certain issues. Actually, now that I think about
03:35 20 it, Sheikh Ibn Jibreel also had a fatwaa denouncing the
21 bombings."

22 Did I accurately read that post?

23 A. Yes, you did.

24 Q. Does that indicate that Tarek Mehanna disagreed with those
25 bombings?

1 MR. CHAKRAVARTY: Objection, your Honor.

2 THE COURT: Sustained.

3 BY MR. CARNEY:

4 Q. Well, did you say earlier there are different views
5 expressed on the forum? Would you consider this view of Tarek
6 to be different than the person who expressed a view in the
7 immediately previous comment in this thread?

8 MR. CHAKRAVARTY: Objection, your Honor.

9 THE COURT: You may answer that.

03:36 10 THE WITNESS: It appears so.

11 BY MR. CARNEY:

12 Q. Do you know what the word "fatwaa" means?

13 A. I believe that is a declaration by a sheikh.

14 Q. It's a formal opinion expressed by a sheikh on a matter of
15 law or religion. Is that fair to say?

16 A. Yes.

17 Q. And so in addition to Tarek expressing his own view in
18 this post, he also references another person, a sheikh, who
19 issued a formal opinion denouncing the bombings, correct?

03:37 20 A. Yes.

21 MR. CARNEY: Could we go to Thread No. 8 in this
22 posting? Why don't you go to the full screen, please? And
23 then go to the next page. And the next page, please?

24 Q. Sir, I have now moved ahead to Posting No. 8 in this
25 thread. Can you read it, sir, to yourself?

1 A. (Witness complies.)

2 Q. This, again, is a posting by Tarek Mehanna, correct?

3 A. Yes.

4 Q. And this thread is concerning the appropriateness or
5 justification for the bombings that had occurred in Riyadh,
6 right? This is what this whole thread is focused on?

7 A. Yes.

8 Q. Tell me if I'm reading it correctly. "Well, honestly, I
9 have changed my views on those particular attacks over the past
03:39 10 year.

11 "The more I think about it, the more I realize that
12 they really didn't accomplish anything beneficial for the
13 Ummah."

14 The word "Ummah" refers to the Muslim community,
15 doesn't it?

16 A. Yes, it does.

17 Q. Please let me continue reading. "Rather, they succeeded
18 in turning the much-needed moral support of the Muslim masses
19 against the mujahideen and their cause," "the mujahideen"
03:39 20 meaning the fighters trying to expel non-Muslims from Muslim
21 lands. Is that right?

22 A. In my opinion, the mujahideen are the fighters.

23 Q. Are you familiar with the name given to the fighters in
24 Afghanistan who were opposing the Soviet Union?

25 A. Yes.

1 Q. Were they called "the mujahideen"?

2 A. They were.

3 Q. All right. "On top of all of that, the targets of those
4 attacks, whether this was intentional or not, turned out not to
5 be crusaders" -- now, the word "crusaders" is used to describe
6 the invading Army of a Muslim land. Isn't that correct?

7 A. In this context, yes.

8 Q. -- "but foreign workers (many of them Muslims) who had
9 nothing to do with the real crusaders. I have listened to both
03:40 10 sides of the story (that, A, the targets were disbelievers who
11 were actively engaged in the occupation of Muslim lands; and,
12 B, the victims were actually not involved in any type of war
13 against the Muslims) and I have only been shown evidence to the
14 latter.

15 "Yes, it's great that the Muslim youth are waking up
16 to the obligation of jihad against their enemies; however, it
17 seems to me that these attacks were done with the right
18 intention but without any beneficial results.

19 "If I am wrong, then I would be happy to hear opposing
03:41 20 arguments."

21 Did I read that correctly?

22 A. Yes, you did.

23 Q. Would this be another example of what you referred to
24 earlier of different viewpoints being expressed in a forum?

25 A. Yes.

1 MR. CARNEY: Could we go to the next page, please,
2 Mr. Bruemmer?

3 Q. After Tarek posted the previous entry that you and I just
4 reviewed, someone responded to him. Is that right? And that's
5 reflected in Thread No. -- or in Entry No. 9?

6 A. It appears so.

7 Q. And this is Tarek's response in Entry No. 10. Do you see
8 the Number 10 at the top right of your screen?

9 A. Yes.

03:42 10 Q. And the previous post by Mr. Mehanna was Number 8?

11 A. Yes.

12 Q. And in the top left you can see his user name,
13 Abu Sabaayaa?

14 A. Yes.

15 Q. Tell me if I'm reading this correctly, please: "Okay. I
16 agree with what you have posted. However, I fail to see how it
17 has anything to do with what I have said. Neither of the two
18 Riyadh" -- Riyadh is the capital of Saudi Arabia?

19 A. Yes.

03:43 20 Q. "Neither of the two Riyadh attacks did any harm to the
21 Saudi government, from what I could tell; rather, they
22 facilitated a wave of arrests and killings of many of the
23 brothers in addition to turning the public opinion of many
24 Muslims against the al Qaeda and the mujahideen.

25 "In regards to what I know about the attacks leading

1 to a lot of Muslim deaths, then I personally know a brother who
2 lives in the area where the first attack took place in Riyadh
3 in May of '03, and he confirmed this to me: that the compound
4 that was attacked was housing mostly Arab and southeast Asian
5 migrant workers, and very few westerners were even present in
6 the area, let alone among the victims.

7 "In terms of the second Riyadh attack: In Egypt,
8 where I am from, the newspapers printed the pictures and names
9 of some Egyptians who were killed, which I saw with my own
03:44 10 eyes, and the names were Muslim names, Mohammad, et cetera. So
11 I would still like for you to explain to me how these attacks
12 harmed the Saudi government because I can only see how they
13 harmed those who pray towards our Qiblah, and as a result the
14 true crusaders had a field day exploiting this by repeatedly
15 pointing out in the press that the mujahideen are succeeding
16 only in killing other Muslims.

17 "Another question for thought: Even if they were
18 Americans or westerners who were killed in those attacks, is
19 every single disbeliever on the land of Aljazeera to be killed
03:44 20 regardless of whether or not they are actively engaged in war
21 against the Muslims? Does the Hadith say 'kill' every mushrik
22 in the Arabian Peninsula, or did it say 'expel' them from it?
23 There's a difference."

24 Did I read that accurately?

25 A. Yes.

1 Q. Is this another instance of a contrary viewpoint being put
2 forward to what other people were saying?

3 A. Yes.

4 MR. CARNEY: Could we go to Document 412, please.

5 Q. This is a document posted by Tarek. Is that correct?

6 A. Yes.

7 Q. You see that by his user name, do you not?

8 A. Yes.

9 Q. The document is entitled "The Importance of the Word,"
03:46 10 correct?

11 A. Yes.

12 Q. And its author is listed under -- as the byline, correct?

13 A. Yes.

14 Q. So this is another instance of Tarek Mehanna posting a
15 document that is someone else's words so that people who go to
16 the discussion group would be able to read this document. Is
17 that fair to say?

18 A. If this post was made available to members of that
19 specific forum, yes.

03:46 20 Q. Is it posted on the forum?

21 A. Certain forums are private, where members would have to
22 have specific status in order to read the messages in that
23 forum even though -- even if the website is password-protected,
24 there are still some private forums also.

25 Q. Do you have any evidence that this is such a private

1 forum?

2 A. No, I do not.

3 Q. It's fair to say that posting an essay like this would be
4 intended for people to read it, correct?

5 A. Yes.

6 MR. CARNEY: Please turn to 413, Mr. Bruemmer. Could
7 we go back? I'm sorry.

8 Q. This is another posting that the prosecutors produced
9 during their direct examination of you. Is that right?

03:48 10 A. Yes.

11 Q. This is about a sheikh's view on the obligation of jihad,
12 correct?

13 A. Yes.

14 Q. And basically, it is an extended quotation of the words of
15 this sheikh, correct?

16 A. Yes.

17 Q. So once again, these are not the words of Tarek; these are
18 the words of someone else that Tarek is posting to the web
19 forum, correct?

03:48 20 A. Yes.

21 MR. CARNEY: 416, please.

22 Q. This is another posting by Tarek Mehanna. Is that right?

23 A. Yes.

24 Q. Now, what occurred is the document "39 Ways to Serve and
25 Participate in Jihad" was originally written in Arabic. Is

1 that correct to your knowledge?

2 A. It appears so.

3 Q. And Tarek Mehanna translated it into English and posted it
4 on the forum, correct?

5 A. Yes.

6 Q. And as we went through earlier, "39 Ways" is directly
7 based upon the Qur'an and upon the messages of the prophet
8 Muhammad, correct?

9 A. Yes.

03:50 10 Q. And in this document where you see things in bold, such as
11 the segment at the very beginning here under "introduction,"
12 that is a direct quote from the words of prophet Mohammad,
13 correct? From Umar Hadith?

14 MR. CHAKRAVARTY: Objection, your Honor.

15 MR. CARNEY: Well, he's already said that.

16 THE COURT: Well, no, sustained without a more
17 particular foundation.

18 BY MR. CARNEY:

19 Q. Didn't you state earlier that the quoted portions -- I
03:50 20 mean, the bold portions, rather, of "39 Ways" are direct quotes
21 from the Hadith, which are the sayings of the Prophet Mohammad?

22 A. Yes.

23 Q. And basically, Mr. Mehanna posted the "39 Ways" in stages
24 as he translated them. And so when you were reading from
25 various posts, it was successive parts of the "39 Ways"

1 document. Is that right?

2 A. Yes.

3 MR. CARNEY: Could we go to 417, please?

4 Q. This is another post by Tarek Mehanna. Do you recognize
5 it?

6 A. Yes.

7 Q. And the title of it is "The Benefits of Jihad," correct?

8 A. Yes.

9 Q. And it is by the person whose name is written out there.

03:51 10 Isn't that right?

11 A. Yes.

12 Q. Do you know when this was written?

13 A. No, I do not. Well, you're talking about the post or the
14 actual document?

15 Q. The actual document, sir.

16 A. No, I do not.

17 Q. Are you aware that the author, whose name I am not going
18 to try to say but can be seen there, is a Muslim scholar who
19 lived 150 years ago?

03:52 20 A. I do not.

21 Q. Did you look into the background of any of the documents
22 that were posted by Tarek Mehanna or did you just focus on the
23 fact that he posted them?

24 MR. CHAKRAVARTY: Objection, your Honor.

25 THE COURT: Well, it's a compound question. Why don't

1 you separate the two.

2 MR. CARNEY: Okay.

3 BY MR. CARNEY:

4 Q. Did you look into the background of some of the documents
5 that were posted by Tarek Mehanna that were not written by him?

6 A. No, I did not.

7 MR. CARNEY: Could we go to 419, please?

8 Q. Now, this is someone who is responding to an earlier post
9 by Tarek Mehanna. This response is by someone who uses a
03:53 10 handle of "Terror Threat," right?

11 A. Yes.

12 Q. And he points out what Tarek said, and then in the next
13 post --

14 MR. CARNEY: If we can go to that.

15 Q. -- we now have this response by Tarek to the previous
16 person. He said, "Yes, I read this before. However, the
17 author doesn't give a convincing argument as to how the Hadith
18 implies killing them, even though it just says expel them."
19 And then Mr. Mehanna goes on to say, "This is what he says on
03:54 20 the issue," and he goes on to talk about the Hadith, the words
21 of Mohammad, that Tarek believes supports his view that you're
22 obligated to expel them and that doesn't mean it's the same
23 thing as obligated to kill them. Is that fair to say?

24 A. Yes.

25 MR. CARNEY: Could we go to the next page, please,

1 Mr. Bruemmer?

2 Q. And after citing the scholarly citation that Mr. Mehanna
3 says supports his view about the obligation to expel from a
4 Muslim land, he then adds some additional commentary which we
5 see here in bold. Is that right?

6 A. Yes.

7 Q. Please tell me if I'm reading it correctly. "If we are
8 speaking about the American military presence in the peninsula,
9 or any other hostile forces or people, then I wholeheartedly
03:55 10 agree with applying the above.

11 "However, what we saw with the two Riyadh attacks did
12 not fall under this categorization. The intended targets and
13 the victims were never proven to have been involved in any
14 hostile acts against the Muslims. As far as we know from all
15 available reports, they were mostly Muslim migrants who were
16 there working odd jobs, and it is highly unlikely that American
17 military forces would house their troops among these people,
18 unlike the attack of '96 where a U.S. Marines military barracks
19 was struck, killing over a dozen Marines because the brothers
03:56 20 struck a compound that housed, you guessed it, Marines, not
21 migrant workers. There is a contrast between these recent
22 Riyadh attacks which did not cause the deaths of any known
23 American military personnel and, for example, the killing of
24 Paul Johnson, who was admittedly working on Apache helicopter
25 repairs."

1 This, once again, is an example of Tarek Mehanna
2 disputing what the fellow Terror Threat had posted on this
3 forum. Is that right?

4 A. This is -- yes, this is his opinion.

5 Q. Okay.

6 MR. CARNEY: May we go to 420, please?

7 Q. Here is another post by Mr. Mehanna. "Right. The
8 Americans live in a democracy. This is a common argument that
9 is used to justify things like this, and this is what I have a
03:57 10 problem with: that simply because the person is an American,
11 and America is at war with the Muslims, that means that you can
12 kill him."

13 MR. CARNEY: Can we go to the next page, please?

14 Q. This is a continuation of Mr. Mehanna's post from the
15 previous page?

16 A. Yes.

17 Q. Let me read it. The word "I" is on the previous page. "I
18 used to believe this, but after long reflection and thought, I
19 have come to the conclusion, and Allah knows best, that this is
03:58 20 an incorrect concept. I am not a scholar, so it's useless for
21 me to go through and present to you all of the Sharee'ah
22 evidences that I have analyzed after coming to this conclusion.
23 But I will argue it here from a logical point of view.

24 "The argument that they live in a democracy, their
25 government is fighting the Muslims, so therefore, each and

1 every American is responsible for the actions of their
2 government can easily be refuted."

3 Now, people had posted that because American forces
4 and other forces invaded Iraq, that any American could be
5 killed. Are you familiar with that or recall that from the
6 post?

7 A. Yes.

8 Q. And this is Tarek disputing that. Isn't that fair to say?

9 A. It's fair to say.

03:59 10 Q. He goes on. "Remember when the war in Iraq first started.
11 Was there a single country on earth, western or otherwise, in
12 which there were not massive anti-war demonstrations condemning
13 the war as well as the Bush administration? Some of the
14 biggest anti-war demonstrations took place right here in the
15 United States itself, as well as the other countries that are
16 part of the U.S. coalition: Spain, the United Kingdom, Italy.
17 Also, if you look at this past U.S. election, almost half of
18 the Americans voted for Kerry, which in U.S. politics,
19 translates as anti-war.

04:00 20 "So after looking at these two realities with a just
21 mind, one can no longer use the argument that the Americans
22 live in a democracy, which they don't; therefore, every single
23 American in the world, civilian or military, can be killed on
24 the spot. No, rather, those who fight us should be fought.
25 Those who fight us, not those who carry the same nationality of

1 those who fight us.

2 "Things are no longer as simple as the fatwaa that use
3 the democracy argument as a justification to make them out to
4 be. We need to combine the knowledge of the Sharee'ah evidence
5 with the understand [sic] and knowledge of world events and
6 realities. If we do so in the case mentioned above, we will
7 see that your argument no longer applies, simply because it has
8 unquestionably been proven that it is not all Americans and
9 westerners support the wars that their governments have
04:01 10 initiated against the Muslims.

11 "And your statements that Americans are leader of
12 kufr, this is a very general statement. I agree with you that
13 all non-Muslim Americans are kufr, but are all of them the
14 leaders of kufr? I don't think so. There are many kind and
15 just people among them. And as I mentioned to you, not all of
16 them support the fight against Muslims.

17 "One American that I know personally was practically
18 begging me to come to an anti-war rally with him. Since I
19 don't agree with demonstrations of this type, I didn't go. But
04:02 20 you see my point: I cannot label this American as one of the
21 leaders of the kufr, nor do I think I should kill him. He's an
22 American, yes, but he is clearly against the wars being
23 perpetrated against the Muslims. Rather, I think a more useful
24 way to deal with someone like this would be to call him to
25 Islam through words and actions.

1 "If you reflect on the verses of the Qur'an and the
2 statement of the messenger of Allah, you will find that, as
3 they say, every situation has its proper way of being dealt
4 with. But to just put a blanket ruling on people simply
5 because of their nationality, maybe that was applicable at a
6 certain point in history, but I don't think it's applicable
7 anymore.

8 "And Allah knows best."

9 MR. CARNEY: Finally, could we go to 427, please?

04:03 10 Q. Now, this is not, in fact, a posting by Tarek Mehanna, is
11 it?

12 A. Not this particular one, no.

13 Q. And this was the one where you indicated that someone had
14 posted something that was asking if a document could be
15 translated about Pakistan, also known as curryland. Is that
16 right?

17 A. Yes.

18 Q. And are you aware from your investigation in this case
19 that Tarek did not translate that document?

04:04 20 A. I'm not aware.

21 Q. Were you aware that he did not have any direct involvement
22 with that document at all?

23 A. I'm not aware.

24 Q. Now, finally, Tarek Mehanna was a moderator on Tibyan, as
25 you've said earlier, correct?

1 A. Yes.

2 Q. And as we've just seen, he frequently expressed his views
3 on Tibyan, correct?

4 A. Yes.

5 Q. Now, al Qa'ida never posted anything on Tibyan, did it?

6 MR. CHAKRAVARTY: Objection, your Honor.

7 THE COURT: Sustained.

8 BY MR. CARNEY:

9 Q. To your knowledge and to your research the terrorist
04:04 10 organization al Qa'ida never posted anything on Tibyan, to your
11 knowledge?

12 A. To my knowledge, no.

13 Q. And Tarek was acting as a moderator in this forum, and
14 because of the views he expressed on that forum, are you aware
15 that his membership was revoked; he was kicked off the forum
16 and no longer granted access to it to put his views on the web
17 forum?

18 A. No, I do not.

19 Q. You don't have personal knowledge?

04:05 20 A. This is not my case, sir.

21 Q. Have you learned from other sources of that fact?

22 A. No, I did not.

23 Q. There will be other evidence.

24 MR. CARNEY: Your Honor, that's all I have. Thank
25 you.

1 MR. CHAKRAVARTY: I do have some cross and there's
2 some reading involved.

3 THE COURT: Sorry?

4 MR. CHAKRAVARTY: There's some reading involved.

5 THE COURT: All right. I think we'd better do it
6 tomorrow, then. We'll recess at this point and continue as
7 scheduled at nine tomorrow.

8 Thank you, jurors. Enjoy the rest of the day.

9 THE CLERK: All rise for the Court and the jury.

04:06 10 Court will be in recess.

11 (The Court and jury exit the courtroom and the
12 proceedings adjourned at 1:02 p.m.)

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1 C E R T I F I C A T E

2 We, Marcia G. Patrisso, RMR, CRR, and Cheryl
3 Dahlstrom, RMR, CRR, Official Reporters of the United States
4 District Court, do hereby certify that the foregoing transcript
5 constitutes, to the best of our skill and ability, a true and
6 accurate transcription of our stenotype notes taken in the
7 matter of Criminal Action No. 09-10017-GAO-1, United States of
8 America v. Tarek Mehanna.

9

10 /s/ Marcia G. Patrisso
11 MARCIA G. PATRISSO, RMR, CRR
Official Court Reporter

12 /s/ Cheryl Dahlstrom
13 CHERYL DAHLSTROM, RMR, CRR
Official Court Reporter

14 Date: November 1, 2011

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